

STATEMENT OF INFORMATION SUBMITTED  
ON BEHALF OF PRESIDENT NIXON

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HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

PURSUANT TO

H. Res. 803

A RESOLUTION AUTHORIZING AND DIRECTING THE COMMITTEE  
ON THE JUDICIARY TO INVESTIGATE WHETHER SUFFICIENT  
GROUNDS EXIST FOR THE HOUSE OF REPRESENTATIVES TO  
EXERCISE ITS CONSTITUTIONAL POWER TO IMPEACH

RICHARD M. NIXON

PRESIDENT OF THE UNITED STATES OF AMERICA

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BOOK IV

WHITE HOUSE SURVEILLANCE ACTIVITIES



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## FOREWORD

By Hon. Peter W. Rodino, Jr., Chairman  
Committee on the Judiciary

On February 6, 1974, the House of Representatives adopted by a vote of 410-4 the following House Resolution 803:

RESOLVED, That the Committee on the Judiciary acting as a whole or by any subcommittee thereof appointed by the Chairman for the purposes hereof and in accordance with the Rules of the Committee, is authorized and directed to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Richard M. Nixon, President of the United States of America. The committee shall report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as it deems proper.

On May 9, 1974, as Chairman of the Committee on the Judiciary, I convened the Committee for hearings to review the results of the Impeachment Inquiry staff's investigation. The hearings were convened pursuant to the Committee's Impeachment Inquiry Procedures adopted on May 2, 1974.

These Procedures provided that President Nixon should be afforded the opportunity to have his counsel present throughout the hearings and to receive a copy of the statement of information and related documents and other evidentiary material at the time that those materials are furnished to the members.

Mr. James D. St. Clair, Special Counsel to the President, was present throughout the initial presentation by the Impeachment Inquiry staff. Following the completion of the initial presentation, the Committee resolved, in accordance with its Procedures, to invite the President's counsel to respond in writing to the Committee's initial evidentiary presentation. The Committee decided that the President's response should be in the manner of the Inquiry staff's initial presentation before the Committee, in accordance with Rule A of the Committee's Impeachment Inquiry Procedures, and should consist of information and evidentiary material, other than the testimony of witnesses, believed by the President's counsel to be pertinent to the inquiry. Counsel for the President was likewise afforded the opportunity to supplement its written response with an oral presentation to the Committee.

President Nixon's response was presented to the Committee on June 27 and June 28.

One notebook was furnished to the members of the Committee relating to White House surveillance activities. In this notebook a statement of information relating to a particular phase of the investigation was immediately followed by supporting evidentiary material which included copies of documents and testimony (much already on the public record) and transcripts of Presidential conversations.

The Committee on the Judiciary is working to follow faithfully its mandate to investigate fully and completely "whether or not sufficient grounds exist" to recommend that the House exercise its constitutional power of impeachment.

Consistent with this mandate, the Committee voted to make public the President's response in the same form and manner as the Inquiry staff's initial presentation.

A handwritten signature in black ink, appearing to read "Peter W. Rodino". The signature is written in a cursive, flowing style with a large initial "P" and a prominent "R".

July, 1974



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### INTRODUCTORY NOTE

The material contained in this volume is presented in two sections. Section 1 contains a statement of information footnoted with citations to evidentiary material. Section 2 contains the same statement of information followed by the supporting material.

Each page of supporting evidence is labeled with the footnote number and a description of the document or the name of the witness testifying. Copies of entire pages of documents and testimony are included, with brackets around the portions pertaining to the statement of information.

In the citation of sources, "SSC" has been used as an abbreviation for the Senate Select Committee on Presidential Campaign Activities and "KCH" for the Senate Judiciary Committee Hearings on the nomination of Richard Kleindienst to be Attorney General.



STATEMENT OF INFORMATION  
SUBMITTED ON BEHALF  
OF THE PRESIDENT

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WHITE HOUSE SURVEILLANCE ACTIVITIES



1. On June 5, 1971, Ehrlichman sent a memorandum to Dean in which he stated there was a recent episode in which information was leaked to a newspaperman and asking whether this is in violation of any statute and also if there is any oath or commitment taken by intelligence people regarding secrecy of information in their possession. Tod Hullin inquired of Dean as to the status of this request in a memorandum dated June 25, 1971. Dean inquired of Hullin on June 29, 1971, whether in light of the New York Times matter the report was still wanted. On July 2, 1971, Dean forwarded this memorandum for Ehrlichman, dated June 16, 1971, to Hullin.

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2. The Special Investigative Unit was established to deal with the problem of security leaks and only afterwards did it become a field operative investigative force, because, in part, of problems arising with the FBI.

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2a.	John Ehrlichman testimony, 6 SSC 2529, 2531...	Page 44
2b.	Charles Colson affidavit, <u>United States v. Ehrlichman</u> , April 29, 1974, 1-2.....	47
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3. On June 30, 1971, General Haig sent a memorandum to the heads of all U. S. Departments and Agencies indicating the President's request for a security clearance review.

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3a. Memorandum from Haig to Heads of all Departments and Agencies, June 30, 1971.....	68

4. Colson, during the period immediately following the Pentagon Papers disclosure, was responsible for analyzing the accuracy of the Pentagon Papers and the relationship between the White House and the Congressional Committees that were planning to investigate this affair. In late June, Haldeman asked him to find a person who could assume full-time responsibility for these functions. E. Howard Hunt was finally chosen for this position.

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5. On July 2, 1971, Colson sent a memorandum to Haldeman with an attachment containing a portion of Alexander Bickel's argument before the Supreme Court.

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6. On July 3, 1971, Colson sent a memorandum to Ray Price setting forth several points the President wanted included in a Presidential statement.

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7. On or about July 15, 1971, Ehrlichman told Krogh to begin this "special" national security project. While Krogh was under the overall aegis of Ehrlichman, he did not regularly report to Ehrlichman.

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7b. John Ehrlichman testimony, Grand Jury, <u>People v.</u> <u>Ehrlichman</u> , June 8, 1973, 546-47.....	94

8. On July 16, 1971, Colson sent a memorandum to Ehrlichman indicating that according to a report from Frank Stanton the FBI made an extensive investigation of the Rand Corporation centering on an alleged leak of documents by Ellsberg and the FBI had a "solid case" but the FBI elected not to act.

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8a. Memorandum from Colson to Ehrlichman, July 16, 1971.....	98

9. The FBI made two unsuccessful attempts to interview  
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10. On July 21, 1971, David Young attended a meeting at CIA headquarters, Langley, Virginia, discussing the CIA's involvement with the Pentagon Papers.

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11. On July 24, 1971, the President held a meeting with Ehrlichman and Krogh, to discuss efforts to identify the source of the SALT leak and the use of a polygraph on State Department personnel suspected of being the source of the leak. The President did not authorize the use of illegal means by the Unit.

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11b. President Nixon Statement, August 15, 1973, 9 Presidential documents, 993.....	111
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12. On July 26, 1971, David Young attended a meeting at the State Department to discuss the specifics related to the preparation of the Pentagon Papers.

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13. On July 26, 1971, Colson sent a memorandum to Ehrlichman recommending that a study be prepared of Top Secret leaks that appeared in the New York Times and suggesting that Krogh and Young could do this.

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14. On July 28, 1971, Young prepared a memorandum for the record summarizing a meeting he attended concerning overall White House direction of the matters surrounding the Ellsberg inquiry.

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15. On July 30, 1971, Krogh and Young sent a memorandum to Ehrlichman on the status of the Ellsberg inquiry.

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16. On August 9, 1971, Young attended a meeting at CIA headquarters to discuss the problem of leaks.

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16a. Young Memorandum for the record, August 9, 1971.. 130

17. On August 13, 1971, Young and Krogh sent a memorandum to Ehrlichman indicating that an attached newspaper article endangered the life of a clandestine CIA operative.

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17a. Memorandum from Egil Krogh and David Young to John Ehrlichman, August 13, 1971.....	134

18. Ehrlichman testified that he first learned of the Ellsberg break-  
in when he returned from a vacation on Cape Cod and that was a few  
days after the event.

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6 SSC 2536.....	138

19. Following a National Security Council meeting on March 28, 1969, the President directed that the several studies be conducted on alternative solutions to the Vietnam War. One alternative to be studied was a unilateral troop withdrawal. The study directive was issued on April 1, 1969 and on April 6, 1969, the New York Times printed an article by Max Frankel indicating that the United States was considering unilateral withdrawal from Vietnam. At the time the article was published no official discussions regarding this alternative had been taken up with the government of South Vietnam.

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19a Article by Max Frankel, "Nixon Has Begun Program To End War In Vietnam," <u>New York Times</u> , April 6, 1969, p. 1, col. 8.....	140
19b Henry A. Kissinger affidavit, ( <u>In Camera</u> ), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 2-3.....	143

20. On June 3, 1969, shortly after the decision had been reached to begin withdrawal of troops from Vietnam, George Sherman reported the decision in The Evening Star and indicated that it would be made public following the President's meeting with South Vietnam's President Nguyen Van Thieu. Hedrick Smith made a similar advance release in the June 4, 1969, New York Times. The decision to begin withdrawing troops had not been formally discussed with the South Vietnamese at the time of the disclosure.

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20a Article by Hedrick Smith, "Nixon-Thieu Talk May Bring Accord on U.S. Troop Cut", <u>New York Times</u> , June 4, 1969, p. 1, col. 1.....	154
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21. In early March, 1969, a decision was reached to conduct B-52 raids into Cambodia. These raids were conducted secretly to maintain the tacit approval of neutralist Cambodian Prince Norodom Sihanouk.

However, on May 6, 1969, William Beecher accurately reported these raids in the New York Times jeopardizing the relationship with Prince Sihanouk.

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21a Article by William Beecher, "Raids In Cambodia By U.S. Unprotected", <u>New York Times</u> , May 9, 1969, p. 1, col. 8.....	162
21b Henry A. Kissinger affidavit, ( <u>In Camera</u> ), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 3-4.....	164

22. In the May 1, 1969, New York Times, William Beecher reported the five strategic options under study for the SALT negotiations with close estimates of the costs for each option. These options were published before they were considered by the National Security Council

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22a Article by William Beecher, "Administration Gets Study of Global Nuclear Strategy", <u>New York Times</u> , May 1, 1969, p. 1, col. 1.....	168
22b Henry A. Kissinger affidavit, ( <u>In Camera</u> ), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 4-6;.....	170

23. . On June 18, 1969 in the New York Times, Peter Grose reported on the secret official estimates for the first strike capabilities of the Soviet Union. This was published during the SALT negotiations thereby prematurely revealing the intelligence basis upon which the United States was developing its SALT position.

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23a Article by Peter Grose, "U.S. Intelligence Doubts Soviet First-Strike Goal", <u>New York Times</u> , June 18, 1969, p. 1, col. 2.....	174
23b Henry A. Kissinger affidavit, ( <u>In Camera</u> ), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 4-6.....	176

24. Hedrick Smith, in the June 3, 1969, edition of the New York Times, reported that the President had determined to remove nuclear weapons from Okinawa in the upcoming negotiations with Japan over the reversion of the Island. The article stated that the President's decision had not yet been communicated to Japan, thereby preempting the possibility of obtaining a more favorable outcome during the negotiations.

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24a Article by Hedrick Smith, "U.S. Said To Plan An Okinawa Deal Barring A-Bombs", <u>New York Times</u> , June 3, 1969, p. 1, col. 5.....	180
24b Henry A. Kissinger affidavit, ( <u>In Camera</u> ), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, p. 6.....	182

25. Morton Halperin was chief of the National Security Council planning group and therefore was one of several persons having access to the information which leaked. In this position and during his tenure as consultant to the NSC, Dr. Halperin received extensive exposure to classified information much of which remains confidential to this day. Dr. Halperin was removed from access to sensitive material regarding national security matters following publication of one of the Beecher articles in the New York Times.

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25a Morton Halperin affidavit, <u>Halperin v. Kissinger</u> , D.C.D.C., C.A. No. 1187-73, signed November 30, 1973,.....	184
25b Henry A. Kissinger affidavit, ( <u>In Camera</u> ), <u>Ellsberg v.</u> <u>Mitchell</u> , D.C.D.C., C.A. No. 1879-72, signed November 26, 1973, pp. 7-9,.....	188

*NOTE: THERE WAS NO PARAGRAPH 26 IN  
THE NOTEBOOK PRESENTED TO THE  
COMMITTEE ON THE JUDICIARY.*

27. A letter dated September 12, 1973 from Attorney General Elliot Richardson to the Senate Foreign Relations Committee referring to the placement of these seventeen national security wiretaps stated that "the Department of Justice scrupulously observes the law as interpreted by the courts."

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27a Henry Kissinger testimony, Senate Foreign Relations Committee, September 7, 1973, pp. 55-56. Letter from Elliot Richardson to Hon. J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, dated September 12, 1973,.....	194

28. There was clear legal authority on the legality of warrantless national security wiretaps at the time the seventeen wiretaps were conducted.

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28a United States v. Clay, 430 F.2d 165 (5th Cir. 1970),  
reversed on other grounds, 403 U.S. 698 (1971).

28b United States v. Brown, 317 F. Supp. 531 (E.D. La. 1970), affirmed, 484 F.2d 418 (5th Cir. 1973).

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NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE ENTIRE PARAGRAPH IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.



29. After the termination of these seventeen taps, the Supreme Court stated that the legality of foreign policy warrantless wire-tapping was an open question. Attorney General Richardson has indicated that under these circumstances, the Department of Justice can reasonably rely on decisions of lower courts in justifying these wiretaps. Under current legal standards, warrantless foreign policy wiretapping is legal.

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29a <u>United States v. United States District Court</u> , 407 U.S. 297 (1972).	
29b     Henry Kissinger testimony, Senate Foreign Relations Committee, September 7, 1973, pp. 55-56. Letter from Elliot Richardson to Hon. J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, dated September 12, 1973.....	200
29c <u>United States v. Butenko</u> , 494 F.2d 593 (3rd Cir. 1974).	

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NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE LAST SENTENCE IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.

On May 31, 1974 the court-appointed panel of experts filed final report on the 18 1/2-minute gap on the June 20, 1972 EOB

One of the bases supporting the panel's final conclusions is the mption that the Uher 5000 recorder used by Rose Mary Woods functioning normally when it produced the erasure and on the June 20, 1972 EOB tape.

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30 a. <u>The EOB Tape of June 20, 1972, Report for a</u> <u>Technical Investigation, Conducted for the U.S.</u> <u>District Court for the District of Columbia by the</u> <u>Advisory Panel on White House Tapes, May 31,</u> <u>1974, p. 3.....</u>	204

31. Stanford Research Institute, Dektor Counterintelligence and Security, Inc. and Home Services, Inc. believe that the Uher 5000 was malfunctioning at the time the erasure on the June 20, 1972 EOB tape was produced. They also disagree with the panel's conclusion that the erasure was produced exclusively by keyboard manipulation and not by internal machine malfunction.

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31a. SRI Report of May 31, 1974, p. 4-6.....	208
31b. Dektor Report of May 30, 1974.....	217
31c. Home Services, Inc. Report of May 24, 1974.....	218
31d. <u>In Re Grand Jury</u> , Misc. 47-73, Sealed Transcript of testimony of Mark Weiss, member of the panel of experts, January 15, 1974, 25-28.....	219

32. Haldeman's contemporaneous notes of his June 20, 1972 meeting with the President do not reflect that the President had prior knowledge of the Watergate burglary or was aware of any subsequent cover-up.

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32 a. In re Grand Jury, Misc. 47-73, Tr. 1307, 1308.. 224

STATEMENT OF INFORMATION  
AND  
SUPPORTING EVIDENCE  
SUBMITTED ON BEHALF  
OF THE PRESIDENT

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WHITE HOUSE SURVEILLANCE ACTIVITIES



1. On June 5, 1971, Ehrlichman sent a memorandum to Dean in which he stated there was a recent episode in which information was leaked to a newspaperman and asking whether this is in violation of any statute and also if there is any oath or commitment taken by intelligence people regarding secrecy of information in their possession. Tod Hullin inquired of Dean as to the status of this request in a memorandum dated June 25, 1971. Dean inquired of Hullin on June 29, 1971, whether in light of the New York Times matter the report was still wanted. On July 2, 1971, Dean forwarded this memorandum for Ehrlichman, dated June 16, 1971, to Hullin.

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JUNE 5, 1971

FOR JOHN DEAN

Apparently there was a recent episode in which information gained through satellite or other intelligence means was leaked to a newspaper man.

The President asks whether or not this is a violation of statute. If it is, would you cite me the statute and also any pertinent oath or commitments taken by intelligence people regarding secrecy of information coming to their hand.

John D. Ehrlichman



MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

JUNE 25, 1971

FOR JOHN DEAN

Could you let us know when we will have something  
on the attached?

Many thanks.

*Tod*  
Tod Hullin

Attachment

*Tod -  
I had drafted a response  
to this when the N.Y. Times matter  
broke -  
I think this may have been  
noted by the Times. Can, but  
if you want my earlier draft  
please let me know -  
yes please  
6/29*

THE WHITE HOUSE  
WASHINGTON

JUL 2 1971

th

TOO —

Attached is the draft  
which I prepared  
before the Times  
case developed —

Dean

THE WHITE HOUSE  
WASHINGTON

June 16, 1971

MEMORANDUM FOR: JOHN EHRLICHMAN

FROM: JOHN DEAN

SUBJECT: Disclosure of Intelligence  
Information to Newspapers

You have referred to me the President's inquiry as to whether the leakage of information gained through satellite or other intelligence means to a newspaperman is a violation of statute. Relevant statutes are described briefly below. Their applicability, however, depends on such facts as: (1) the agency employing the person releasing such information, and (2) the classification of such information, if any.

Classified information refers to defense information classified CONFIDENTIAL, SECRET or TOP SECRET pursuant to Executive Order 10501.

50 U.S.C. 783(b): This statute prohibits any officer or employee of the United States from communicating any classified information to any person the officer or employee has reason to believe is an agent of a foreign government or any Communist organization. Delivery of classified information to a newspaper is certainly one means of communicating such information to representatives of foreign governments, but this broad an interpretation might be rejected by the courts under the doctrine of strict construction of criminal statutes.

18 U.S.C. 793: This statute prohibits anyone from entering an office or copying a document, connected with the national defense, for the purpose of obtaining information respecting the national defense "with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation." It also prohibits anyone with possession of or access to

any document or photograph relating to the national defense, or any information which "could be used" against the United States, from delivering or communicating such material to any unauthorized person. (This section applies whether the access is authorized or unauthorized; it also penalizes the loss of such material by persons entrusted with it, and the receipt of such material by anyone with reason to believe it has been obtained by means or will be disposed of in a way prohibited by the statute.)

18 U.S.C. 794: This statute prohibits the communication of any material relating to the national defense to any foreign national or agent, if he has reason to believe it will be used to injure the United States or to the advantage of any foreign government.

It has been held that the term "national defense" is a generic concept of broad connotations and referred to the military and naval establishments and the related activities of national preparedness. It is not clear whether this would apply to information relating to the defense establishment of a foreign country, although we believe it would be so extended in a proper case.

Section 798 prohibits disclosure of classified information concerning foreign codes, or American intelligence activities relating to foreign codes and communications. As drafted, however, it would not apply to disclosures relating to satellite or other intelligence activities or information obtained thereby. This may be deemed an omission worthy of correction.

Certain regulations have also been adopted by each branch of the military for the protection of classified information by persons within their supervision. These regulations set forth the conditions under which classified or other defense material may be disclosed to others. Disclosure under conditions other than those set forth would constitute a breach of the regulations. Violation of these regulations is a court-martial offense under the U.C.M.J.

#### CONCLUSION:

The United States has no law similar to England's Official Secrets Act, and therefore, prosecution of civilians for disclosure of classified materials generally requires proof of disloyal intent. Military personnel may generally be court-martialed for violation of regulations governing classified materials. Certain administrative remedies relating to employment are, of course, always available.

2. The Special Investigative Unit was established to deal with the problem of security leaks and only afterwards did it become a field operative investigative force, because, in part, of problems arising with the FBI.

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2a.	John Ehrlichman testimony, 6 SSC 2529, 2531...	Page 44
2b.	Charles Colson affidavit, <u>United States v. Ehrlichman</u> , April 29, 1974, 1-2.....	47
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Mr. DASH. Well, after the Huston plan did not go forward, as you understood it to be, were you assigned a role to create in the White House a capability for intelligence-gathering at any time?

Mr. EHRLICHMAN. I do not know quite what you are getting at. If you are getting at the special unit and the problems of leaks—

Mr. DASH. I do not know why you have to find out what I am getting at, if you just answer my question as I ask it.

Mr. EHRLICHMAN. It is an obscure question.

Mr. DASH. It is a simple question. If the answer is "No," say "No." If the answer is "Yes," say "Yes."

Mr. EHRLICHMAN. Would you restate the question for me, please?

Mr. DASH. I said, did there come a time when you were asked to develop a capability in the White House for intelligence-gathering?

Mr. EHRLICHMAN. Intelligence-gathering, the answer would be "No."

Mr. DASH. All right.

Now, you were trying to see what I was getting at. Were you ever asked to set up a special unit in the White House for the purpose of determining whether certain leaks had occurred in major national security areas?

Mr. EHRLICHMAN. In point of fact I was—and strictly in terms of your question, I was not asked to set it up. Mr. Krogh was asked to set it up.

Mr. DASH. Who is Mr. Krogh?

Mr. EHRLICHMAN. Bud Krogh, Egil Krogh, Jr., was a member of the Domestic Council staff, and he was asked by the President to form this special unit. I was designated as one to whom Mr. Krogh could come with problems in connection with it, and the President said also that he could come to him with problems.

Mr. DASH. Were you in at the beginning of the setting up of this plan?

Mr. EHRLICHMAN. Yes, I was.

Mr. DASH. And you knew what the unit was to do?

Mr. EHRLICHMAN. Yes.

Mr. DASH. What was the unit to do?

Mr. EHRLICHMAN. The unit as originally conceived was to stimulate the various departments and agencies to do a better job of controlling leaks and the theft or other exposure of national security secrets from within their departments. It was a group which was to bring to account, so to speak, the various security offices of the Departments of Defense, and State, and Justice, and CIA, to get them to do a better job.

Mr. DASH. And, therefore, this unit was to gather facts, if there was a leak or to act as a deterrent, I take it, to prevent leaks.

Mr. EHRLICHMAN. No, there would have been no need to gather facts under that concept, except to know that there had been an occurrence, but to require vigorous and very active effort on the part of the responsible people in the departments and agencies to find out who was responsible and how it happened and to make sure it couldn't happen again.

Mr. DASH. Isn't that getting facts. If you were seeking to find out who was responsible and the unit was looking for it, wouldn't you be wanting to get facts?

2530

Mr. EHRLICHMAN. I am sorry, you were asking as to intelligence?

Mr. DASH. You are jumping again ahead of me. I didn't say intelligence. I said facts.

Mr. EHRLICHMAN. All right, facts in that sense, but limited to that.

Mr. DASH. All right. Would you say some people who go to seek facts in an investigative way can also say they seek intelligence?

Mr. EHRLICHMAN. Well, but you see what I am trying to say to you is as originally set up and conceived this was not an investigative unit in the sense that your question implies. It was far more a group that was established for the purpose of getting the security people in the departments and agencies to do a better job of their job.

Mr. DASH. Was it ever called or was it ever referred to as an investigative unit?

Mr. EHRLICHMAN. Subsequently it was because it became an investigative unit subsequently.

Mr. DASH. So there came a time when you were administering an investigative unit?

Mr. EHRLICHMAN. Yes, in a literal sense, that is true.

Mr. DASH. Literal sense?

Mr. EHRLICHMAN. Yes, sir.

Mr. DASH. Not in an actual sense?

Mr. EHRLICHMAN. Well, here I am dueling with a professor.

Mr. DASH. I am not dueling with you. I am just trying—

Mr. EHRLICHMAN. Professor, if you say actual, it is actual.  
[Laughter.]

Mr. DASH. I don't want you to take my questions and I don't want to put words in your mouth.

Mr. EHRLICHMAN. Sure, I am trying to give you—

Mr. DASH. I really want to have you answer to the best of your recollection.

Mr. EHRLICHMAN. Sure, I am trying to give you the real essence of this as we go along and I don't mean to be fencing over words.

Mr. DASH. Could you please tell us in as clear a way as you can what the responsibilities of this particular unit were both in the beginning and how it developed, and as it developed later?

Mr. EHRLICHMAN. I told about the beginning of it. Let me tell you how it evolved. At a point in time in connection with the Pentagon Papers theft, a whole series of events took place. One of the first of them was that the Pentagon Papers, which were marked secret and top secret and which were Defense Department, largely Defense Department documents, were turned over to the Russian Embassy. I knew this because I had a call from Mr. Mardian, the Assistant Attorney General advising me that the Justice Department had this firm fact. The Attorney General came over and reported to the President that this theft had evidently been perpetrated by a number of people, a conspiracy, and that some of the people were identified by the Department of Justice as having had previous ties to domestic communist activities.

The Attorney General then reported in response to an inquiry, and maybe I had better tell you how the inquiry came up. Mr. Krogh came to me and said "I am having real trouble getting the FBI to move on this." And so I said "Well" and basically my function was to do downfield blocking for Mr. Krogh when he had problems in the Department.

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I said "OK, I will contact the Attorney General and see what I can do," which I did. The Attorney General called me back and he said:

We have a very tough problem here. It appears that a top man in the FBI put in a routine request that Mr. Ellsberg's father-in-law be interviewed. The Director has given that top man notice that he is going to be transferred and demoted, and he has further given notice that that interview and interviews of that family are not to take place.

Now this was the area in which Mr. Krogh and the special unit were pressing for the Department of Justice to bring information together as was their job to do. The Attorney General said "I am going to reverse this decision on the part of the Director to transfer this man and demote him" but he said "We have a very touchy situation with the Director. Mr. Sullivan in the Bureau is extremely upset and concerned and disagrees strongly with the Director in this matter, I don't know but what Mr. Sullivan may quit as a result of this whole episode, it's very touchy within the Bureau." I said "What are our chances of getting the Bureau to move ahead on this right away," and he said "Very slim or none."

So it was very--this set of facts, and the real strong feeling of the President that there was a legitimate and vital national security aspect to this, that it was decided, first on Mr. Krogh's recommendation, with my concurrence, that the two men in this special unit who had had considerable investigative experience, be assigned to follow up on the then leads and rather general leads which were in the file.

Mr. DASH. Who were these two men?

Mr. EHRLICHMAN. Hunt and Liddy.

Mr. DASH. Now, did you know Mr. Hunt or Mr. Liddy?

Mr. EHRLICHMAN. I had met Mr. Hunt once briefly. I had never met Mr. Liddy.

Mr. DASH. Did you meet him or come in contact with him during the time he worked in the special unit?

Mr. EHRLICHMAN. No.

Mr. DASH. At no time?

Mr. EHRLICHMAN. I don't believe I have ever met him.

Mr. DASH. Now--

Mr. EHRLICHMAN. Wait a minute, I will take that back. He may have been in my office once, and I can't say whether it was before or after, in connection with a project that Mr. Krogh was working on relating to the organization of the Justice Department which was his area of responsibility. It is possible that Liddy attended that meeting. I have a vague recollection of that.

Mr. DASH. Now, Mr. Young also worked in this unit, did he not?

Mr. EHRLICHMAN. Yes.

Mr. DASH. And he worked under Mr. Krogh?

Mr. EHRLICHMAN. He worked as a kind of a cochairman.

Mr. DASH. What was the reporting relationship between Mr. Young and Mr. Krogh to you?

Mr. EHRLICHMAN. Well, Mr. Krogh, of course, was on my staff, and maintained the same reporting relationship to me that he had always maintained. Mr. Young began reporting to me at the time that he joined that special unit.

Mr. DASH. You say the same reporting relationship. Was this a regular reporting relationship?



2b. CHARLES COLSON AFFIDAVIT, APRIL 29, 1974,  
UNITED STATES v. EHRLICHMAN

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FILED ✓

APR 29 1974

UNITED STATES OF AMERICA )

JAMES E. DAVEY, Clerk

v. )

Criminal No. 74-116

JOHN D. EHRLICHMAN, et al: )

Defendants )

AFFIDAVIT

District of Columbia, ss.:

CHARLES W. COLSON, being duly sworn, deposes and says:

1. I submit this affidavit pursuant to the Court's Order of April 19, 1974, and in support of my Motion for Discovery pursuant to Rule 16 of the Federal Rules of Criminal Procedure.

2. I was in several meetings with the President in the period following the publication in the Press of the "Pentagon Papers" in the New York Times, the Washington Post and other papers. The Presidential logs show meetings and telephone calls between the President and me (sometimes with others present) on the following dates: June 15, 16, 17, 23, 25, 28, 29, 30, July 1 and July 2, 1971. During that period (I cannot establish which of the aforementioned meetings or calls are relevant although I believe many are) the President repeatedly emphasized the tremendous gravity of the leaks and his concern that Ellsberg and/or Ellsberg's associates might continue the pattern. I can remember the President saying on a number of occasions that if the leaks

2b. CHARLES COLSON AFFIDAVIT, APRIL 29, 1974,  
UNITED STATES v. EHRLICHMAN

were to continue, there could be no "credible U. S. foreign policy" and that the damage to the Government and to the national security at a very sensitive time would be severe. He referred to many of the sensitive matters that were then either being negotiated or considered by the Administration, e.g., SALT, Soviet detente, the Paris peace negotiations and his plans for ending the war in Vietnam. (He had earlier made me aware of his desire to visit the Peoples Republic of China.) During the two weeks following the publication of the Pentagon Papers, I also met with Dr. Kissinger, Mr. Ehrlichman and Mr. Haldeman. On several occasions, Dr. Kissinger would arrive at our meeting having just come from meeting with the President. Dr. Kissinger was even more alarmed over the leaks than the President. He believed that the leaks must be stopped at all costs, that Ellsberg must be stopped from making further disclosures of classified information, and that those acting in concert with him must be stopped. Dr. Kissinger also reported on Ellsberg's private habits and certain of his activities in Vietnam. I had the clear impression that Dr. Kissinger was reacting to conversations he had had at various times with the President; basically his concern was very similar to the President's: that Ellsberg's activities or the activities of those acting with him or pursuant to his example, could undermine the most critical and sensitive foreign policy negotiations. At various times thereafter both the President and Dr. Kissinger voiced their great concern over leaks of sensitive information that could undermine vital national security matters. The President from time to time expressed his dissatisfaction with the aggressiveness of the investigations being conducted of Dr. Ellsberg and others (early August 1971).

3. In late June 1971, perhaps June 28, 29, 30 or even July 1st (the Presidential logs are, I believe, incomplete), I had several discussions with the President regarding the possibility of still further security leaks. During at least one of these discussions Mr. Haldeman was also present. On that occasion, the President, speaking to Mr. Haldeman and to me, said in effect: I don't give a damn how it is done, do whatever has to be done to stop these leaks and prevent further unauthorized disclosures; I don't want to be told why it can't be done. This Government cannot survive, it cannot function if anyone can run out and leak whatever documents he wants to. We will be destroyed in the negotiations that we have underway with the Soviet Union; we will never be able to stand up against the Soviet Union; people's lives are at stake in Vietnam. I want to know who is behind this and I want the most complete investigation that can be conducted. At one point the President asked Mr. Haldeman whether the White House had the capacity to handle this. Haldeman said it was being established. The President went on: I want to know how and why the "counter-government" is at work. If we do not stop them, if we do not find out who is involved and why, we will endanger everything that this Government is trying to do in the most sensitive foreign policy and national security areas. I don't want excuses, I want results. I want it done, whatever the cost.

4. During this period, as in all other periods, the President had a habit of making memoranda at night for Mr. Haldeman and dictating dictabelts of what went on during the day. Accordingly, during the period of mid-June to the end of July 1971, there should be notes and memos, including instructions to Mr.

2b. CHARLES COLSON AFFIDAVIT, APRIL 29, 1974,  
UNITED STATES v. EHRLICHMAN

Haldeman, Mr. Ehrlichman, Dr. Kissinger and others dealing with this matter. These notes and memos would be part of the Staff Secretary's files or Mr. Haldeman's files or Rose Wood's files. If not, they would be found in the files of the secretary in Mr. Haldeman's office who used to transcribe these belts and who should have kept records of such notes and memos. Based on my knowledge of the President's habits, I believe that these notes, memos and written instructions should be somewhere in the Presidential files.

5. After the Special Investigations Unit was established as a result of meetings in California, it was reported to me by Messrs. Ehrlichman and Krogh that the President had ordered the creation of such a unit, that it was to be located in the basement of the EOB, that it was to be operated under super-secret conditions; that there would be sterile phones, that special passes were to be required for entry and that all of this was consistent with the instructions the President had issued to stop leaks of classified national security information. I was told the unit was granted a broad charter to coordinate and supervise the intelligence activities of all agencies, directed to preventing leaks of such information. I thereupon concluded that the President had impressed upon Messrs. Ehrlichman and Krogh the same instructions he had given to Mr. Haldeman and me in late June, and in fact, had given them the authority and charter to conduct a full-fledged White House investigation in concert with other agencies such as the FBI and the CIA.

6. I was not present but I was and am aware of at least three meetings at which the Special Investigations Unit was given its

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authorization. One was on July 15 on a helicopter returning from Los Angeles to San Clemente following the President's announcement of Dr. Kissinger's trip to China. Messrs. Haldeman, Ehrlichman, Kissinger and the President engaged in that discussion. There was a subsequent meeting on July 17 in San Clemente, to which Mr. Krogh as testified. There was also a meeting in San Clemente on July 12 at which Mr. Robert Mardian was present. There was also the July 24th meeting with the President in Washington, attended first by Mr. Ehrlichman and later by Mr. Krogh. I know there was a subsequent meeting between the President and J. Edgar Hoover at which the charter of the Special Investigations Unit was discussed. I believe that there were similar meetings with Messrs. Mitchell, Helms, Rogers and Laird or, if the President was not present, Mr. Ehrlichman conducted such meetings at the President's direction.

7. On or about April 18, 1973, at the suggestion of my counsel, I had a conversation with Mr. Ehrlichman concerning the national security restrictions, if any, that would prevent my discussing with the United States Attorney's office my knowledge of the Special Investigations Unit and its activities. Mr. Ehrlichman said that he had discussed the matter with the President. According to Mr. Ehrlichman, the President, in Mr. Ehrlichman's presence, had telephoned Assistant Attorney General Henry Peterson, at which time the President told Mr. Peterson that he, the President, had authorized the Special Investigation Unit to investigate Dr. Ellsberg on national security grounds, that he had approved the "Ellsberg operation" after consultation with J. Edgar Hoover, and that Mr. Peterson should not pursue the matter any further. Mr. Ehrlichman then told me that the national security restrictions

2b. CHARLES COLSON AFFIDAVIT, APRIL 29, 1974,  
UNITED STATES v. EHRLICHMAN

about which I had inquired were still very much applicable and that I was not at liberty to discuss the matter with the United States Attorney's office - or with anyone else.

Contemporaneous Knowledge

8. During the period June through October 1971 and prior thereto, I had personal knowledge of the information listed below, which was obtained, in whole or in part, either from seeing particular documents, from having portions of such documents read to me, or from being told about either the subject matter or their contents. It is impossible, almost three years after the fact, to particularize the source or extent of my contemporary knowledge concerning each document or item of information without access to the documents in order to refresh my recollection.

- a. reports of various government agencies (i.e., DOD, CIA, FBI) concerning the delivery of "Pentagon Papers" to agents of the Soviet Union or other foreign governments;
- b. reports of various government agencies (i.e., the Internal Security Division, Department of Justice, and the FBI) concerning the suspicion that Dr. Ellsberg was acting on behalf of a foreign government in releasing classified information to the public;
- c. a meeting in late July 1971 at which the Attorney General reported to President Nixon that Dr. Ellsberg may have been part of a

2b. CHARLES COLSON AFFIDAVIT, APRIL 29, 1974,  
UNITED STATES v. EHRLICHMAN

domestic spy ring;

- d. CIA and FBI reports concerning the compromising of a CIA agent in Pakistan as a result of an August 13, 1971, New York Times dispatch;
- e. a report prepared by Admiral Noël Guyler and members of his staff detailing the damage to the national security which could be expected to result from the release of the "Pentagon Papers";
- f. a June 14, 1971, memorandum from J. Fred Buzhardt to the Attorney General detailing the national security concerns arising from unauthorized disclosures of classified information;
- g. communications from foreign governments -- such as Australia, Canada and Britain -- expressing concern over the inability of the United States Government to prevent unauthorized disclosures of classified information;
- h. communications from J. Edgar Hoover to Dr. Henry Kissinger expressing the view that certain persons leaking information to Dr. Ellsberg may have been part of a domestic spy ring;
- i. National Security Study Memorandum No. 1 (NSSM-1);
- j. other contingency plans for military operations in South East Asia;
- k. Strategic Intergrated Operations Plans (SIOP's);

- l. several documents submitted in camera to the United States Supreme Court in connection with New York Times Company v. United States, 403 U.S. 714 (1971), which were part of the "Pentagon Papers" but were never published, and which dealt with CIA agents in the field, U-2 overflights of China, and decoding information;
- m. secret negotiations by Dr. Kissinger in Paris concerning the Vietnam war;
- n. secret negotiations concerning a trip to China by President Nixon;
- o. secret negotiations in connection with the Strategic Arms Limitation Treaty;
- p. a 1970 FBI report of an investigation concerning the compromise or theft of secrets at the Rand Corporation;
- q. reports by the CIA concerning Dr. Ellsberg's activities in Vietnam;
- r. a psychological profile of Dr. Ellsberg supplied by the CIA;
- s. memoranda or the records of Dr. Kissinger and other national security counsel staff persons concerning meetings with or about Dr. Ellsberg;
- t. reports by various government agencies concerning leaks of classified national security information



during the period 1969 to 1971, including a CIA summary and analysis dated October 1971 submitted by Director Helms to the White House;

- u. reports by various government agencies concerning the SALT leak of 1971, including polygraph tests of suspects, reports of investigations, and the disposition of personnel who were identified as being responsible;
- v. numerous conversations between Dr. Kissinger, on the one hand, and President Nixon, Mr. Ehrlichman, Dr. Ellsberg, Secretary Laird, Director Helms and General Haig, on the other, concerning the SALT leak or the leak of the Pentagon Papers in July 1971;
- w. reports by government agencies concerning Dr. Ellsberg's relationship with a security officer at Rand as a result of which he had gained access to extensive highly classified strategic information and SIOP's;
- x. reports of contacts between the CIA and the Special Investigations Unit and reports of contacts between the CIA and the Special Investigations Unit.

Sworn before me this

27th day of April, 1974.

Donald E. Brown  
Notary Public

My Commission Expires November 23, 1977



CHARLES W. COLSON

2c. JOHN EHRLICHMAN AFFIDAVIT, APRIL 30, 1974,  
UNITED STATES v. EHRLICHMAN

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

CR. CASE NO. 74-116 (Judge Gesell)

FILED

APR 30 1974

JAMES F. DAVEY  
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN EHRLICHMAN, et al.,

Defendants

AFFIDAVIT OF JOHN D. EHRLICHMAN

DISTRICT )  
OF ) SS:  
COLUMBIA )

JOHN D. EHRLICHMAN, being duly sworn, on oath deposes  
and says:

The following narrative account of the formation and  
authorization of the investigation of the theft of the Pentagon  
Papers and subsequent events, going to the question of the  
President's instructions, authorization and approval, is made  
in response to the Court's request of April 19, 1974.

The Pentagon Papers Theft:

In mid-June, 1971, it was learned at the White House  
that part of the 47-volume secret study of the Viet Nam War  
had been copied and delivered to the New York Times and other  
papers.

In the week or ten days thereafter, I participated in several meetings with the President and Henry Kissinger. The latter told us about Daniel Ellsberg (known to have been the thief).

We were told he was a fanatic, known to be a drug abuser and in knowledge of very critical defense secrets of current validity, such as nuclear deterrent targeting.

Having never heard of Ellsberg before the theft of the Papers, my impression from Kissinger's description was that the Nation was presented with a very serious potential security problem beyond the theft of the largely historical Pentagon Papers. I later learned that the Papers themselves were believed by defense experts to contain vital secrets.

Dr. Kissinger told the President that the theft made very difficult our foreign relations with Allies with whom we shared classified information.

In these meetings both the President and Dr. Kissinger were obviously deeply concerned. The latter was quite agitated at times.

The President made very clear his instructions that the Department of Justice should seek restraint of publication of the Papers and should vigorously investigate to determine those guilty of their theft and compromise. I transmitted his instructions to the Attorney General and I believe he did so directly on several occasions.

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The Apparent Conspiracy:

As the Justice Department investigation proceeded, I heard or was told several times that Ellsberg was a part of a conspiracy.

On July 6, 1971, the President and I met with the Attorney General. He told us that he believed Ellsberg had Communist ties and was part of a conspiracy. The President said, in substance, that we must learn who was involved and quickly bring them to justice.

At around the same time, the Assistant Attorney General for internal security called me to advise that an "intercept" established that some or all of the Papers had been delivered to the Soviet Embassy here. I told the President of this call.

F.B.I. reports (which I either saw or was told of) suggested that a group in Massachusetts had caused the Papers to be duplicated in Cambridge; one of them was believed to be an employee of the New York Times. Ellsberg worked in California at the time. I told the President of this F.B.I. advice.

The F.B.I.:

For some months prior to June, 1971, and virtually until his death, J. Edgar Hoover was the object of the President's criticism on a number of grounds: The F.B.I. Director refused to enlist the Bureau in the Administration's effort to suppress Narcotics Traffic; the President was known to feel that the F.B.I. effort against domestic sabotage and violence was inadequate; a file containing a complete catalogue of problems, marked "The

Company Director" exists in the possession of the Government.

In late June and early July, the F.B.I. effort in the Pentagon Papers case was the subject of Assistant Attorney General Mardian's strong criticism. On his assumption of responsibility in mid-July, Mr. Krogh joined in that criticism.

During this period the Attorney General advised me, and I told the President, that Mr. Hoover had disciplined one of the F.B.I.'s top officials for ordering an F.B.I. interview of Ellsberg's father-in-law. The disciplinary papers are known by me to be in the possession of the Government.

It is against this background that the Young-Krogh unit was established by the President and expressly given the job of investigating Ellsberg.

The Genesis of The Unit:

On July 2, 1971, the President instructed me:

- (1) To recruit someone to take full responsibility to "handle the Ellsberg case," or words of that substance, and to take charge of the investigation of the conspiracy;
- (2) To propose Richard Allen, formerly of the Kissinger staff, to do so, or seek alternate candidates; and
- (3) To "stick with domestic matters" myself, finding someone with whom the President could work directly on the leak problem.

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Five days later, the President went to San Clemente without a choice having been made. Several people were asked to make suggestions.

At this time the concept was that the person chosen would lead and prod people in the Departments and Agencies, without direct White House involvement.

The President continued to urge vigorous attention to the problem of leaks of secrets. He stressed the great problem these leaks made for those charged with conducting Foreign Policy and maintaining National Defense.

The Damage Assessment:

As the litigation with newspapers progressed (June 15 - July 7), various damage assessments were prepared by experts. For example, the Director of the National Security Agency, Admiral Guyler, prepared in Affidavit form a description of how the Pentagon Papers Theft had damaged the Nation's security. This Affidavit was transmitted to the U.S. Attorney, Southern District of New York. The President was told of some of these assessments.

The Formation of The Unit:

On July 12, 1971, in his office at San Clemente, the President met with Assistant Attorney General Mardian and several others, including me.

He told the President of the progress of the Justice Department efforts, named others believed to be a part of the theft conspiracy, and described some of the damage from the theft.

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The President's sense of urgency was heightened by this meeting. He was not satisfied with Mr. Mardian's report and insisted upon an early designation of a White House man-in-charge.

Three days before David Young was proposed as a possible choice. The decision was made to make him jointly responsible with Egil Krogh (who was due in San Clemente from Viet Nam the following Friday).

I sent for Young to come from Washington; he arrived July 14. Dr. Kissinger then objected to Young being assigned to the Unit from his staff, on the ground that he had other proposed uses for him.

In a conversation among the President, Henry Kissinger and me (attended by H. R. Haldeman), July 15, the President decided Young should be assigned to the Unit.

On Saturday, July 17, I told Young and Krogh of the foregoing events, of the President's sense of urgency and his assignments. They were to immediately return to Washington, assimilate all current facts, decide how to stimulate the various Government Units to plug future possible leaks, decide how to move the Justice Department's Ellsberg-Conspiracy Investigation to an early and successful conclusion and be prepared to work directly with the President, at his option, or through me, if they needed help.

The President returned to Washington Sunday, July 18.

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The SALT Leak:

During the week of July 19, 1971, the media carried a story which disclosed this Country's secret negotiating strategy in the Strategic Arms Limitation Treaty negotiations with the Russians.

In my presence, both the President and members of the National Security Council staff expressed deep concern and even agitation about the damaging effect of this leak.

When the President discussed leaks with Egil Krogh and me, on July 24, 1971, he demanded that Krogh find those responsible for the SALT leak, resorting to polygraph tests regardless of Government employees' objections, and gave the clear impression to me that Krogh was to use extraordinary measures to carry out his assignment.

This conversation with Krogh left me with the belief that now Krogh had a one-on-one relationship with the President, which accomplished the assignment given me by the President July 2, to find someone to take over the Ellsberg matter.

Both before and after the Krogh meeting, July 24, the President also gave me instructions to pass along to Krogh and Young. Invariably when they made recommendations, jointly or severally, the President concurred. His only criticism of their effort was that it was not vigorous enough.

The Unit was ordered to investigate on some date which could probably be determined from my notes (now in the Government's custody). Mr. Krogh complained of the F.B.I.'s failure to cooperate fully in the Ellsberg investigation. I discussed



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the problem with the Attorney General. He advised me of a continuing problem with Mr. Hoover. I recall specifically Mr. Krogh complaining that the F.B.I. had not even designated the Ellsberg case as a primary or priority case.

I advised Krogh of my talk with the Attorney General, and he recommended that some of the Unit's people be sent out to quickly complete the California investigation of Ellsberg.

I told the President of these conversations, sometime between July 26 and August 5, as nearly as I can now reconstruct it.

He responded that Krogh should, of course, do whatever he considered necessary to get to the bottom of the matter--to learn what Ellsberg's motives and potential further harmful action might be.

I told Krogh, in substance, that he should do whatever he considered necessary.

On August 6, I left Washington for a period of 5 days.

August 11 was my first full day back in the office.

Sometime later, I initialled and wrote on a Memorandum, dated August 11, in which Krogh and Young proposed that the investigation include a covert attempt to learn what Ellsberg may have disclosed to Dr. Fielding. In my opinion, this was well within the President's mandate.

So far as I am personally concerned, I was not aware of any intent on anyone's part to break into Dr. Fielding's premises before that occurrence.

Statements Subsequent to March 20, 1973:

On at least two occasions, the President spoke about the Fielding break-in, in my presence.

April 18, 1973, between 7:00 and 8:00 P.M., the President was in Aspen Lodge, at Camp David. In my presence, he called Henry Peterson, then Assistant Attorney General.

Since April 15, the President had been working closely with Peterson on fast-breaking developments in the Watergate case.

It was clear to me that they were discussing the Fielding break-in.

The President said, in substance:

You and your Department stay out of that. That is strictly a National Security matter. I know you have to enforce the laws but as President, I have to protect the National Security and that comes first. As President, I am instructing you to take no action whatever on that matter.

When he hung up, the President told me they had been discussing the Fielding break-in. He said, in substance, that the break-in was in furtherance of National Security and fully justified by the circumstances; moreover, if Justice got into it, it would be just a matter of time before the WASAG-leak case would be public knowledge, and he would not permit such damage to the Joint Chiefs of Staff if he could prevent it.

On a date during the first few days in May, 1973, Egil Krogh asked me to secure the President's approval of his disclosure of the Ellsberg matter to Attorney General-designate Elliott Richardson.

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I saw the President in the Oval Office.

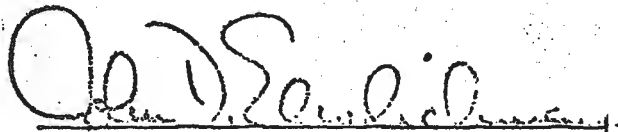
He consented to Krogh doing so. At that time, he said,  
in substance:

While I (the President) did not know of the break-in attempt in advance, I surely recognize the valid National Security reasons why it was done. I want Krogh to explain them carefully to Elliott who is new in the job.

The President indicated his after-the-fact approval of this effort to secure evidence of Ellsberg's motives and potential.

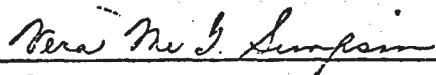
I expressed the hope that Krogh would not be permitted to suffer for an event which he had every reason to assume was within the scope of the President's charter to him.

The President gave me the impression that he would not.



JOHN D. EHRLICHMAN

SWORN TO AND SUBSCRIBED before me,  
this 26<sup>th</sup> day of APRIL, 1974.



NOTARY PUBLIC

My Commission Expires: May 31, 1976

CERTIFICATE OF SERVICE

I hereby certify that on this 30 day of April, 1974,  
true copies of the foregoing instrument were mailed, first class  
postage prepaid, to the following:

Leon Jaworski, Esq.  
Special Prosecutor  
1425 K Street, N. W. 9th Floor  
Washington, D. C. 20005

David E. Schultz, Esq.  
1025 Connecticut Avenue, N. W.  
Washington, D. C. 20035

Peter Maroulis, Esq.  
11 Cannon Street  
Poughkeepsie, New York 12601

Dana Brigham, Esq.  
The Brigham Building  
Miami, Florida 33131

Sidney Dickstein, Esq.  
1735 New York Avenue, N. W.  
Washington, D. C. 20006

*De C. [Signature]*

3. On June 30, 1971, General Haig sent a memorandum to the heads of all U. S. Departments and Agencies indicating the President's request for a security clearance review.

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3a. Memorandum from Haig to Heads of all Departments and Agencies, June 30, 1971.....	68

THE WHITE HOUSE

WASHINGTON

June 30, 1971

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR

HEADS OF ALL U. S. DEPARTMENTS AND AGENCIES

SUBJECT: Security Clearance Review

The President has directed that the following actions be taken by each department and agency of the U. S. Government having authority and responsibility for the classification of information affecting the national defense and security, and for the granting of security clearance for access to such information, pursuant to the provisions of Federal laws, Executive Orders, Presidential directives, and departmental regulations:

1. The submission of a report by noon Saturday, July 10, 1971 providing the number of employees (those regularly employed by the U. S. Government, those serving as consultants, and those employees of private business concerns engaged in the performance of classified contacts with the U. S. Government) who hold clearances for access to (a) Top Secret information, and (b) the various categories of compartmented intelligence data.

2. The compilation, by the end of July, of lists of the names of the holders of clearances in the Top Secret and compartmented categories referred to above broken down to indicate government or non-government employment.

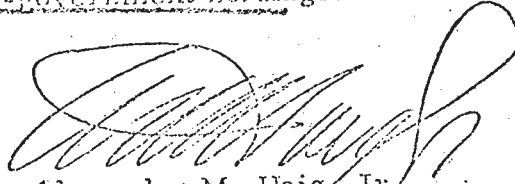
It is further directed that each responsible department and agency initiate at once a review and screening of each Top Secret and compartmented clearance presently held by individuals in the above employment categories with a view to effecting immediate reductions of all clearances which cannot be demonstrated to meet the requirement of strict need to know. Particular consideration is to be given to the screening of employees in the consultant and contracted categories.

ADMINISTRATIVELY CONFIDENTIAL

ADMINISTRATIVELY CONFIDENTIAL

-2-

Each responsible department and agency shall also initiate immediately a review of those individuals and organizations (outside the government now retaining Top Secret or compartmented material with the aim of drastically reducing such non-government holdings.



Alexander M. Haig, Jr.  
Brigadier General, U. S. Army  
Deputy Assistant to the President  
for National Security Affairs

ADMINISTRATIVELY CONFIDENTIAL





4. Colson, during the period immediately following the Pentagon Papers disclosure, was responsible for analyzing the accuracy of the Pentagon Papers and the relationship between the White House and the Congressional Committees that were planning to investigate this affair. In late June, Haldeman asked him to find a person who could assume full-time responsibility for these functions. E. Howard Hunt was finally chosen for this position.

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4a. Charles Colson testimony, Grand Jury, <u>People v. Ehrlichman</u> , June 8, 1973, 628-630.....	72

Kw14ba. 1

Q During that same part of the year, 1971, early  
2 1971, did you know Mr. Egil Krogh?

3 A Yes, I did.

4 Q What did you understand his position to be?

5 A Deputy Assistant to the President for Domestic  
6 Affairs; one of Mr. Ehrlichman's chief deputies.

7 Q Did it ever come to your attention that White  
8 House personnel intended to initiate an investigation into  
9 the sources of the Pentagon Papers disclosure?

10 A Yes, it did.

11 Q How did you learn this, sir?

12 A Well, I think it was discussed in -- in the early  
13 part of July; and I may have been in meetings or in discussion  
14 with the White House Staff, with regard to the investigative  
15 aspects of the leak of the Pentagon Papers.

16 I had been involved in a prior phase of the  
17 Pentagon Papers controversy, which was in the latter part of  
18 June and the early part of July, which dealt more with an  
19 analysis of the Papers themselves, their completeness, their  
20 accuracy; and the relationship that would exist between the  
21 White House and Congressional committees which were at that  
22 time contemplating investigations into both the substance  
23 and the -- and the source of -- both the substance of the  
24 Papers and the origins of the Vietnam war.

25 The -- I was also involved in the liti -- in the  
26 aspects of litigating the issue.

27 You use the term "investigative." And the  
28 investigative mechanism, that really is something that

2.

1 developed in -- in the first couple of weeks of July, I  
2 think, the middle of July.

3 Q Did you have occasion, during those periods of  
4 weeks, so to speak, to recommend Mr. Hunt for this kind  
5 of investigative work?

6 A Not for the investigative -- well, for the --  
7 for the work, in terms of analyzing the Pentagon Papers;  
8 for the work in terms of coordinating the efforts of  
9 Government agencies in terms of research into the Pentagon  
10 Papers.

11 Q Could you tell the Grand Jury, please, the  
12 circumstances leading up to whatever recommendation you  
13 actually did make of Mr. Hunt?

14 A All right. In early July, the first -- the last  
15 couple of days of June, or the first few days of July of  
16 1971, I was asked by Mr. Haldeman to give him a series of --  
17 to give him some recommendations of a man who could be  
18 brought onto the White House Staff -- or, a man perhaps who  
19 was already on the White House Staff -- but to recommend  
20 to him someone who could assume the full-time responsibilities  
21 for coordinating the research into the Pentagon Papers and  
22 the liaison between the White House and Congressional  
23 committees that might be conducting investigations.

24 I did make a series of recommendations to Mr.  
25 Haldeman -- in fact, five or six names -- in a memorandum  
26 of July 2nd. I recommended five or six individuals, including  
27 one of those recommendations -- one of those recommended was  
28 Mr. Hunt.

3.

1 Q What happened next in connection with Mr. Hunt  
2 recommendation and his subsequent employment?

3 A Well, there was a decision initially by Mr.  
4 Haldeman and Mr. Ehrlichman that a present member of the  
5 White House Staff, who had been one of those who I had  
6 recommended, assume responsibility.

7 I talked with that member of the Staff on July  
8 6th, and he declined. He said that he didn't feel that he  
9 was qualified for it.

10 I sent a memorandum to Mr. Ehrlichman on July  
11 6th in which I said that this member of the Staff did not  
12 wish to take the job on; and that for one reason or another,  
13 all of those who had been recommended, in my July 2nd memo,  
14 were either unacceptable or unavailable, except for Mr.  
15 Hunt.

16 And I urged Mr. Ehrlichman, in that memorandum,  
17 to interview Mr. Hunt to determine if he approved of his  
18 being hired.

19 Q Did you ever get any response, either in writing  
20 or orally, from Mr. Ehrlichman?

21 A Yes.

22 Q Would you tell us, please, of that?

23 A Mr. Ehrlichman asked that I bring Mr. Hunt to  
24 see him, which I did on the morning of July 7th. And  
25 thereafter, Mr. Ehrlichman indicated to me that he thought Mr.  
26 Hunt would be a good man for the job, and that he should be  
27 brought under the -- onto the White House Staff as a  
28 consultant.

14A.

5. On July 2, 1971, Colson sent a memorandum to Haldeman with an attachment containing a portion of Alexander Bickel's argument before the Supreme Court.

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July 2, 1971

MEMORANDUM FOR:

H. R. HALDEMAN

FROM:

CHARLES COLSON

SUBJECT:

New York Times

Enclosed is a portion from the transcript of the oral argument in the Supreme Court last Saturday with reference to the POWs. The news reports carried this excerpt as one by the counsel for the Post and Stewart. On reading the transcript, it appears that the answer was given by Mr. Bickel, counsel for the New York Times. I am trying to dig out the news stories.

The thrust of the questions and answers, however, is as reported and is devastating. Bickel was obviously trying to fudge the answer to make the point that the release of the documents would be but one of many things delaying the release of prisoners. After granting that, however, he does say that that is a risk that should be taken.

cc: Pat Buchanan  
Van Shumway

EXCERPTED PASSAGE FROM ORAL ARGUMENT OF SUPREME COURT AND DURING ARGUMENT OF ALEXANDER BICKEL, COUNSEL FOR THE NEW YORK TIMES, June 28, 1971.

Justice Stewart -- Mr. Bickel it is understandably and inevitably true that in a case like this, particularly when so many of the facts are under seal, it is necessary to speak in abstract terms, but let me give you a hypothetical case. Let us assume that when the members of the court go back and open up this sealed record we find something there that absolutely convinces us that its disclosure would result in the sentencing to death of a hundred young men whose only offense had been that they were 19 years old and had low draft numbers. What should we do?

A. Mr. Justice, I wish there were a statute that covered it.

Justice Stewart -- Well, there is not. We agree, or you submit, and I am asking in this case what should we do.

A. I am addressing a case of which I am as confident as I can be of anything that Your Honor will not find that when you get back to your chambers. It is a hard case. I think it would make bad separation of powers law. But it is almost impossible to resist the inclination not to let the information be published, of course.

Justice Stewart -- As you know, and I am sure you do know, the concern that this court has term after term with people who have been convicted and sentenced to death, convicted of extremely serious crimes in capital cases, and I am posing you a case where the disclosure of something in these files would result in the deaths of people who are guilty of nothing.

A. You are posing me a case, of course, Mr. Justice, in which that element of my attempted definition which refers to the chain of causation--

Justice Stewart -- I suppose in a great big global picture this is not a national threat. There are at least 25 Americans killed in Vietnam every week these days.

A. No, sir, but I meant it is a case in which the chain of causation between the act of publication and the feared event, the death of these 100 young men, is obvious, direct, immediate.

Justice Stewart -- That is what I am assuming in my hypothetical case.

A. I would only say as to that that it is a case in which in the absence of a statute, I suppose most of us would say --

Justice Stewart -- You would say the Constitution requires that it be published, and that these men die, is that it?

A. No, I am afraid that my inclinations to humanity overcome the somewhat more abstract devotion to the First Amendment in a case of that sort. I would wish that Congress took a look to the seldom used and not in very good shape espionage acts, and cleaned them up some so that we could have statutes that are clearly applicable, within vagueness rules, and what not, so that we do not have to rely on Presidential powers. But the burden of the question is do I assume that the event has to be of cosmic nature.

Justice Stewart -- That is the question.

A. No, sir. The examples given by Chief Justice Hughes himself are not. A troop ship is in a sense that 100 men or the location of a platoon is in a sense that 100 men. I don't assume that. I do honestly think that that hard case would make very bad separation of powers law.

Justice Stewart -- Let me alter the illustration a little bit in the hypothetical case. Suppose the information was sufficient that judges could be satisfied that the disclosure of the link the identity of a person engaged in delicate negotiations having to do with the possible release of prisoners of war, that the disclosure of this would delay the release of those prisoners for a substantial period of time. I am posing that so that it is not immediate. Is that or is that not in your view a matter that should stop the publication and therefore avoid the delay in the release of the prisoners.

A. On that question, which is of course a good deal nearer to what is bruited about, anyway, in the record of this case, I can only say that unless -- which I cannot imagine can be possible -- the link of causation is made direct and immediate, even though the event might be somewhat distant, but unless it can be demonstrated that it is really true if you publish this, that will happen, or there is a high probability, rather than as is typical of those events, there are 17 causes feeding into them. Any one of those other than the publication



is entirely capable of being the single effective cause, and the real argument is, well, you add publication to that, and it makes it a little more difficult. I think Mr. Justice, that is a risk that the First Amendment signifies that this society is willing to take. That is part of the risk of freedom that I would certainly take,



6. On July 3, 1971, Colson sent a memorandum to Ray Price setting forth several points the President wanted included in a President statement.

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HIGH PRIORITY

cc: Highby ✓  
July 3, 1971

MEMORANDUM FOR: RAY PRICE  
FROM: CHARLES COLSON

The President this morning gave me the following points which he would like to have drafted into a statement which he may want to use in Kansas City. In any event, if he decides not to use it, it is a thesis that he would like to see developed as a major Administration statement.

The points went as follows:

1. A former Government official or officials in clear violation of the Espionage Act delivered stolen, top secret papers to the press. (The statement about "in clear violation of the Espionage Act" should be double checked -- will have to be modified to the correct legal phraseology.)
2. This Administration sought to enjoin the publication of those documents. There was no reason we should do this -- certainly from a political standpoint in view of the fact that these were records involving prior Administrations.
3. But there were higher issues involved than any political consideration. I took an oath to enforce the law of this land. The law clearly says that no one -- editor or President, for that matter -- can put himself above the law. The law in this instance imposed a very clear obligation upon this Government.
4. The court has now ruled that the newspapers do have the right to print these documents. I will not question that decision (the characterization of what the Court did rule should be made quite clear because they did not hold that under no circumstance could the Government seek and make stick an injunction).
5. The real question, however, is: Should a newspaper in the great tradition of our free press exercise that right in an unrestricted way.

6. The President would then like to cite the exchange with Bickel pointing out that Counsel for the Times believes that even if there were a risk that the publication could contribute to a delay in the return of POWs "that is a risk that the 1st Amendment signifies that this society is willing to take." (We must be very careful to be sure that Bickel's response is fully in context. You will note that he says that it would be unlikely to be the only cause of delay, it might be one of many causes and that under those circumstances the risk should be taken.) He does acknowledge, however, that the principle of the 1st Amendment overrides the risk of delaying the return of POWs. As President, I do not share that view. That may be the standard of one newspaper, it can never be my standard. That can never be the standard of the President of the United States.
7. I am negotiating on many fronts for peace. Many of these negotiations could not succeed unless they were conducted in secret and vital information is protected. I will keep my oath to enforce the law; moreover my primary obligation is the protection of American lives and the return of POWs. If secret negotiations are necessary to this end then I will do everything in my power to protect the security of those negotiations.
8. I can well understand that newspapers must seek stories and scoops both to inform the public and obviously because they are in a very competitive commercial enterprise. They must seek to inform the public and increase their circulation but if I have a choice between the life of one American and a newspaper's understandable desire to obtain information, I will put one man's life above this. No story, even if it would sell a million more newspapers, is worth the life of one American.
9. As far as the record of this Administration is concerned, I have nothing to hide. I deeply believe in the people's right to know but my first obligation is to the future and to keeping the peace for the future.
10. President Eisenhower once told me the story of his relationships with the press during the very trying days of World War II. Newsmen were often given secret invasion plans in advance but no reporter ever broke security. I believe that the American press understands the very deep responsibility which they have and which they have exercised many times before.

-3-

11. The President then added a couple of additional points which probably belong back in the text somewhere: I understand the obligation of editors to seek the truth, particularly when it might appear that the classified information has been protected largely for political purposes.

He then also added: The newspapers may have a legal right to publish top secret documents but the real question is: Should the newspapers exercise this right?

7. On or about July 15, 1971, Ehrlichman told Krogh to begin this "special" national security project. While Krogh was under the overall aegis of Ehrlichman, he did not regularly report to Ehrlichman.

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7a. WILLIAM TREADWELL LETTER, MAY 4, 1973

William M Treadwell

Attorney at Law

Suite 202 - 510 Sixteenth Street NW • Washington DC 20005 • Telephone: (202) 638-9175 • Telex: 157

May 4, 1973

Office of the United States Attorney  
for the District of Columbia  
U. S. District Courthouse  
Washington, D. C.

Attention: Earl J. Silbert  
Assistant U. S. Attorney

Dear Mr. Silbert:

Herewith presented to you at the request of my client, Egil Krogh, Jr., is an Affidavit of Disclosure of Evidentiary Information.

It is presented to you with the specific request that it be immediately submitted to the Honorable W. Matthew Byrne, Judge of the United States District Court for the Southern District of California.

The affidavit has been prepared and executed in conformity with statutory provisions, and was sworn to in open court by Mr. Krogh on this date, Theodore R. Newman, Jr., Judge of the Superior Court of the District of Columbia presiding. Thereafter the jurat was properly certified by the Clerk of the Court, with seal affixed.

An unexecuted xerox copy of this affidavit is herewith also presented to you, for your own files.

Yours truly,

*William M. Treadwell*

WMT:nb  
Enclosures

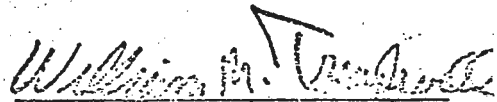


WASHINGTON  
DISTRICT OF COLUMBIA

SS.: AFFIDAVIT OF DISCLOSURE  
OF EVIDENTIARY INFORMATION

This affidavit was prepared personally by the affiant and is presented to the Department of Justice for submission to the United States District Court, Southern District of California, the Honorable W. Matthew Byrne, Jr. presiding.

The form and execution of this affidavit is in conformity with statutory law and judicial precedent, and its submission is not a waiver or forfeiture of any state or federal constitutional, statutory, or common-law right of the affiant.



William M. Treadwell  
Attorney at Law

Suite 303  
910 Sixteenth Street, N.W.  
Washington, D. C. 20006  
Telephone: 202-659-1978, 9

WASHINGTON  
DISTRICT OF COLUMBIA

SS.:

Egil Krogh, Jr., of full age, being first duly sworn according to law upon his oath, deposes and says:

1. that he resides at 6949 Greenvale Street, N.W., Washington, District of Columbia;
2. that he is a citizen of the United States of America;
3. that he is currently an officer of the executive branch of the federal government, serving as Under-Secretary of the Department of Transportation;
4. that on or about July 15, 1971, affiant was given oral instructions by Mr. John D. Ehrlichman, Assistant to the President of the United States for Domestic Affairs, to begin a special National Security project to co-ordinate a government effort to determine the causes, sources, and ramifications of the unauthorized disclosure of classified documents known as the Pentagon Papers;
5. that Mr. David Young of the National Security Council Staff was assigned to this special project with him;

6. that to his information and belief one reason for undertaking an independent investigation centralized among White House staff was that a close personal relationship existed between the then Director of the Federal Bureau of Investigation, J. Edgar Hoover, and Mr. Louis Marx, father-in-law of Dr. Daniel Ellsberg, admitted public source of the Pentagon Papers;
7. that to affiant's information and belief the establishment of an independent investigatory unit reporting to the White House staff was expressly agreed to by Director Hoover and this agreement manifested in a memorandum from Director Hoover;
8. that to his information and belief Central Intelligence Agency investigative support was unobtainable for this special National Security project due to the lack of CIA jurisdiction within the territorial United States;
9. that in July 1971 the affiant recommended to Mr. John D. Ehrlichman that Mr. G. Gordon Liddy be employed by the special unit as an investigator and staff assistant, and Mr. Ehrlichman subsequently authorized the employment of Mr. Liddy;
10. that Mr. E. Howard Hunt was recommended to affiant for assistance on the Pentagon Papers investigation, such recommendation was made to affiant over the telephone by Mr. Charles C. Colson, Special Counsel to the President;
11. that Mr. Colson's recommendation of Mr. Hunt was based on Mr. Hunt's investigative experience as an agent for the Central Intelligence Agency;
12. that Mr. Hunt was at that time employed as a part time White House consultant by Mr. Colson on matters not known to me;
13. that information obtained by the special unit made it imperative to ascertain whether the unauthorized disclosure of the Pentagon Papers was (a) an individual act, (b) the act of a small group, or (c) the result of a wider conspiracy to engage in espionage;
14. that during the early stages of the investigation, affiant received information suggesting that Dr. Ellsberg did not act alone;
15. that the affiant was informed by the Federal Bureau of Investigation that the so-called Pentagon Papers were in the possession of the Soviet Embassy, Washington, D. C., prior to their publication by the New York Times newspaper suggesting an effort to aid and abet an enemy of the United States through an ally;

- ✓16. that shortly thereafter additional public disclosure of classified information related to national security took place, to-wit:

(a) publication of a news story on the Strategic Arms Limitation talks with the Soviet Union, and

(b) publication of a news story on August 12, 1971, regarding a Soviet move to avert a war by entering into a pact with India;

- ✓17. that following the publication of the abovementioned SALT story, the affiant was personally instructed by President Nixon, in the presence of John D. Ehrlichman, that the continuing "leaks" of vital information were compromising the national security of the United States, and the President instructed the affiant to move ahead with the greatest urgency to determine the source of "leaks";
18. that the affiant was informed by the CIA that a news story had put in jeopardy the life of an intelligence agent, thus emphasizing the need for increased investigative effort on the part of the affiant's special unit;
19. that in addition the affiant was informed repeatedly during the months of July and August of 1971 of the extreme threat perceived to be developing by high government officials, because of the possibility of further unauthorized disclosure as to the capability of the United States government to conduct its foreign affairs and protect its national security;
20. that efforts to discover the sources had not succeeded;
21. that affiant's special unit received information from an interview conducted by the Federal Bureau of Investigation with one Dr. Fielding, former psychiatrist to Daniel Ellsberg, which yielded no information;
22. that additionally a psychological profile of Dr. Ellsberg, prepared by the CIA provided no useful information to the affiant's special unit;
23. that discussions among the special unit were conducted which suggested that information in the possession of Dr. Fielding may hold the key to breaking the impasse;
24. that individuals who may have participated in a conspiracy with Dr. Ellsberg may have been named;
25. that a psychological profile could be put together with information derived from Dr. Fielding;

26. that general authorization to engage in covert activity to obtain a psychological history or ascertain associates of Dr. Ellsberg was thereafter given to the special unit by John D. Ehrlichman;
27. that plans for acquiring the information from the office of Dr. Fielding were developed by Mr. Hunt and Mr. Liddy;
28. that to affiant's information and belief a first trip to California was undertaken by Mr. Hunt and Mr. Liddy to determine means for acquiring the information;
29. that films of the premises of Dr. Fielding's office were brought back by Mr. Hunt and Mr. Liddy following the first trip;
30. that to affiant's understanding and belief certain of these films were left in a camera belonging to the Central Intelligence Agency and transmitted to the Department of Justice by the Central Intelligence Agency; *Oct.*
31. that a second trip was undertaken to acquire the information in early September 1971;
- ✓ 32. that in affiant's supervisory capacity, affiant agreed to the mission with the understanding that Mr. Hunt and Mr. Liddy would obtain the service of certain Cubans to accomplish the mission;
33. that affiant attached a condition to the mission that Mr. Hunt and Mr. Liddy were not to be in the close proximity of Dr. Fielding's office;
34. that recent newspaper reports suggesting that an individual had accepted responsibility for the entry into two offices on the premises where Dr. Fielding has his office was a completely unknown incident to affiant;
- ✓ 35. that to affiant's understanding and belief the funds for implementing the effort to acquire the information were provided to affiant through an unknown intermediary after a request by affiant to Mr. Charles Colson for the funds;
- ✓ 36. that to affiant's knowledge affiant did not inform Mr. Colson as to the reason for the request for funds;
37. that to affiant's understanding and belief the funds totalled \$2,000.00 which were to be used for expenses;

7a. EGIL KROGH AFFIDAVIT, MAY 4, 1973,  
UNITED STATES v. KROGH

38. that to affiant's understanding and belief, Mr. Hunt stressed to affiant that only expense money would be accepted by those who had been recruited for this effort as this was a contribution to the security of the United States and no profit should be derived;
39. that to affiant's understanding and belief no information was acquired from the second and final trip regarding any associates of Dr. Ellsberg, a psychiatric background of Dr. Ellsberg, or any other material;
40. that to affiant's understanding and belief no information of any kind was transmitted to any government agency for use in the prosecution of Dr. Daniel Ellsberg derived from either trip to California as none was obtained;
41. that upon return from the second trip to California, failure of the objective to acquire information was reported by Mr. Hunt and Mr. Liddy to affiant and photos of destructive activity within an office were displayed to explain the events which had reportedly transpired;
42. that photographs of Dr. Fielding's apartment were presented by Mr. Hunt and Mr. Liddy with a recommendation that another attempt be made to acquire the desired information;
43. that no other effort was undertaken to acquire information on Dr. Ellsberg's associates or psychiatric history;
44. that affiant reported the results of the second trip to California to Mr. John D. Ehrlichman with the recommendation that any additional covert activity be disapproved;
45. that Mr. Ehrlichman disapproved any further covert activity;
- ✓ 46. that Mr. Ehrlichman advised affiant that the activity on the second trip to California far exceeded the scope of any covert activity which had been approved in general in advance;
47. that affiant was instructed to inform Mr. Liddy and Mr. Hunt that no additional covert activity was to be undertaken;
48. that affiant informed Mr. Hunt and Mr. Liddy that no additional covert activity was to be undertaken;

7a. EGIL KROGH AFFIDAVIT, MAY 4, 1973,  
UNITED STATES v. KROGH

49. that to his understanding and belief, affiant has had no prior knowledge of any subsequent covert activity alleged to have been undertaken by Mr. Hunt and Mr. Liddy;
50. that affiant has testified before the Senate Commerce Committee during his confirmation hearings regarding the organization and activities of the so-called "plumbers;"
51. that in reviewing the transcript of those hearings, affiant believes he responded accurately and truthfully to all questions posed by the Committee members during the hearings;
52. that during his confirmation hearing affiant denied any knowledge of bugging or electronic surveillance activities by the "plumbers;"
53. that recent newspaper accounts allege that such activities may have taken place, and that affiant reiterates that he had no knowledge of such alleged electronic surveillance activities.

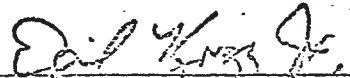
7a. EGIL KROGH AFFIDAVIT, MAY 4, 1973,  
UNITED STATES v. KROGH

WASHINGTON :  
DISTRICT OF COLUMBIA :

SS.:

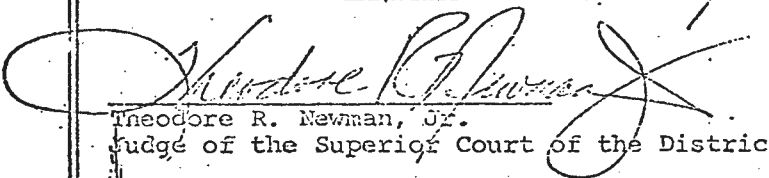
Egil Krogh, Jr., being duly sworn according to law upon his oath, says that he is the affiant of the foregoing; that he has read same and knows contents thereof; that the matters stated therein are true to his knowledge, except such matters as are stated to be upon information and belief and as to those matters he believes them to be true.

Further, I declare under the penalty of perjury that the foregoing is true and correct.

  
Egil Krogh, Jr.

SUBSCRIBED AND SWORN TO

before me this 4th day of May, 1973

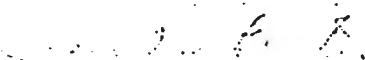
  
Theodore R. Newman, Jr.  
Judge of the Superior Court of the District of Columbia.

Joseph M. Burton, Clerk of the Superior Court of the District of Columbia, the same being a court of record of said District, and having by law a seal, does hereby certify that the Honorable Theodore R. Newman, Jr., whose name is attached to the foregoing affidavit, was at the time of the taking of said affidavit, a member of said Superior Court, which court then and there existed.

And I do further certify that I am well acquainted with his handwriting and verily believe that the signature to the foregoing affidavit is his genuine signature.

In witness whereof, I have hereunto set my hand and affixed the seal of said Superior Court of the District of Columbia this

4th day of May, 1973.

  
Joseph M. Burton  
Clerk of the Court

2-2 1 year was the time that the -- we went off the -- closed the  
2 gold window, put the ninety-day freeze on, and were  
3 developing an entirely new tax package.

4 From the time we returned from San Clemente,  
5 which would have been the -- what? -- third week in July,  
6 I guess, until the -- about the 15th of August, somewhere  
7 alone in there, I was -- I was almost totally bottled up  
8 with that project.

9 Q Are you telling us, so we can be specifically  
10 clear about the matter, that Mr. Krogh never reported to you?

11 A No, no. I certainly wouldn't say that. But  
12 what I am saying is: It was sort of subject to my  
13 availability.

14 The understanding was that he had pretty much  
15 of a free hand; and that it was not necessary for him to  
16 report to me on any periodic basis, and only at his  
17 discretion.

18 Q Would Mr. Young report to you in connection with  
19 the work of the Plumbers Group?

20 A Occasionally, yes. And much more frequently  
21 later, than in this time frame that we are talking about now,  
22 in connection with other problems.

23 Q Did Krogh ever seek your advice and counsel  
24 with respect to any proposed projects by this so-called  
25 special unit or Plumbers Group?

26 A He asked me -- yes, he did.

27 Q In what connection?

28 A In connection with the problems that they were



2-3 1 having, in cooperation from the F.B.I.

2 Q Did Mr. Young ever seek your advice and counsel  
3 with respect to any projects of the special unit or  
4 Plumbers Group?

5 A Yes, he did.

6 Q In what connection?

7 A In a connection which I am really not at liberty  
8 to discuss, but which has no -- no connection with this matter

9 Q Did Mr. Krogh ever seek your approval in  
10 connection with any contemplated courses of action that  
11 were to be undertaken by the members of the Plumbers Group  
12 or special unit?

13 A Yes. In the former connection, in the matter  
14 of the F.B.I. He -- and I think he -- he and David Young  
15 probably jointly came to the conclusion that it was going  
16 to be necessary for them to do some first party investigation  
17 so to speak.

18 And since this was a departure from the  
19 original -- the original concept, we discussed it.

20 Q What was the first party investigation --

21 A Well, specifically, sending Hunt and Liddy  
22 out here to do some investigation for Krogh and Young, first  
23 party.

24 Q When was that discussion entered into, sir?

25 A I can't recall specifically, but it would have  
26 been sometime, I would guess -- oh, the late part of July  
27 or the early part of August, some place in there.

28 Q Did Mr. Krogh discuss this with you privately,



8. On July 16, 1971, Colson sent a memorandum to Ehrlichman indicating that according to a report from Frank Stanton the FBI made an extensive investigation of the Rand Corporation centering on an alleged leak of documents by Ellsberg and the FBI had a "solid case" but the FBI elected not to act.

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8a. Memorandum from Colson to Ehrlichman, July 16, 1971.....	98

July 16, 1971

MEMORANDUM FOR: JOHN EHRLICHMAN  
FROM: CHARLES COLSON  
SUBJECT: Rand Corp/FBI/Ellsberg

Frank Stanton, who was on the board of the Rand Corporation, told me yesterday that at a recent executive committee meeting it was disclosed that the FBI had made an extensive investigation at Rand in April of 1970. The investigation centered about an alleged leak of documents by Ellsberg. I am sure this is the incident you told me about over the phone.

According to the report given to the Rand executive committee, the FBI had a solid case but did nothing with it. Stanton suggested that it should be a matter of great concern to us especially if there is any truth to Rand's assertion that there was a solid case and the FBI elected not to act.

In view of the fact that Rand obviously used this as a way of protecting themselves and shifting responsibility back on us, I would think that the file should be very carefully examined and we should be certain of precisely what happened internally that caused the case to be turned off.

EYES ONLY

9. The FBI made two unsuccessful attempts to interview Dr. Lewis Fielding on July 20 and 26, 1971.

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a. 1 Q And without going into the content of what was  
2 in the envelope, do you recall about how many sheets of paper,  
3 different documents, might have been within the envelope?  
4 Numberwise?

5 A Maybe two -- call them documents. And each one  
6 consisting of about -- well, one consisting of about 25 pages;  
7 the other of about 35 or 40 pages.

8 Q So it was a rather voluminous file, in the sense  
9 that it -- it is noticeable, and by thickness (indicating)?

10 A Yes, from my standards, voluminous.


11 Q If one were to copy it, would one have to take  
12 pictures of the front and the back? Or just one side?

13 A I wish I had -- I wish -- you know --

14 Q Well, if you can recall. As best you can recall.

15 A I can't recall. I really can't recall.

16 Q That's all right. It's just that we are trying to  
17 establish the amount of copying that might have to be done  
18 on it.

19  Now, prior to that incident, and in 1971, were you  
20 ever contacted by individuals who identified themselves as  
21 working for the Federal Bureau of Investigation, and inquiring  
22 about Dr. Daniel Ellsberg?

23 A Yes, sir, I was.

24 Q And about when was that, sir?

25 A Exactly on July the 20th, 1971.

26 Q And how do you fix -- how do you fix that date?

27 A I made a note in my book.

28 Q Very good.

1           A       Then I referred them to my attorney, who, after  
2 we had talked together, decided that I should not talk with  
3 them about Daniel Ellsberg.

4           Q       All right. And were you ever contacted by the  
5 FBI after those conversations?

6           A       No. That was on the 26th, I think, that I had  
7 the last contact with them.

8           Q       And that was July 26th, 1971?

9           A       Yes.

10          Q       And by telephone with the representative of the  
11 Federal Bureau of Investigation?

12          A       Yes, sir.

13          Q       Did you at any time disclose to them any of the  
14 confidential matters that had been discussed between you and  
15 Dr. Ellsberg during your relationship as physician and  
16 patient?

17          A       No, sir.

18          Q       Now, did you communicate to Dr. Ellsberg at any-  
19 time that you had been contacted by the FBI in July of 1971?

20          A       Yes, sir. Yes. On the occasion of Dr. Ellsberg's  
21 trial, he visited me a few subsequent times, professionally,  
22 at my office. And at that time, my -- here's how it -- the  
23 reason.

24                   My attorney told me that I had to, for safety's  
25 sake, assume that my office might be bugged. And I had  
26 communicated to Mr. Ellsberg that I had been visited by the  
27 FBI.

28          Q       And in relationship to the September break-in of





10. On July 21, 1971, David Young attended a meeting at CIA headquarters, Langley, Virginia, discussing the CIA's involvement with the Pentagon Papers.

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10a. DAVID YOUNG MEMORANDUM OF CONVERSATION,  
JULY 21, 1971

MEMORANDUM OF CONVERSATION

JULY 21, 1971

TIME: 3:00 - 5:00

PLACE: CIA Headquarters, Langley, Virginia

Participants at various times during the afternoon included:

Richard Helms, Director

Howard Osborne, Director of Security

Ermil Geiss, Deputy Director of Security

George Carver, Special Assistant to the Director, Vietnam Affairs

David R. Young

The initial meeting which lasted about a half an hour, was with Osborne and Geiss. My basic approach can be summed up in the following question: In the wake of the Pentagon Papers what, aside from your participation in the Rehnquist Committee operation and the general directive to review clearances and cut them back, are you doing or what sort of review are you conducting?

Osborne explained that he was chairing a group called the Intra-Agency Security Review Committee. This is a group of senior representatives from each of the five directorates plus a representative from the General Counsel's Office. Their main objective is to review procedures and restrict the number of persons with access to compartmented systems in much the same way that top-secret clearances are being reviewed. In addition they intend to cut back on the number who need to know and to tighten up the regulations on clearance.

I asked Osborne and Geiss a series of questions in connection with the Pentagon Papers, and they said they didn't know the answers and that we might better talk with George Carver. We then moved to Carver's office where I spent about another hour. The main points discussed and the answers to my questions were as follows:

Follow-Up  
Required\*      (1) Carver gave me a copy of the CIA damage assessment which has attached the two-page letter from Gelb which transmitted the whole 47 volumes to the Secretary of Defense (attached). [The letter itself mentions only 43, though the index attached lists the 47 volumes. This is a discrepancy which we will have to be sure is pursued.]

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\*FUR

10a. DAVID YOUNG MEMORANDUM OF CONVERSATION,  
JULY 21, 1971

- FUR (2) With regard to the Pentagon Papers, CIA did not participate in the preparation of the 47-volume work itself. They were, however, asked by Secretary of Defense McNamara to supply documents and cooperate with the Task Force. There was a CIA liaison whose name was Dixon Davis. He will have to be interviewed.
- FUR (3) The CIA was not then conducting and had not conducted an examination or study on Ellsberg's personality. It was done by DISCO, and they suggested that we go to Justice to get the read out on that.
- (4) The CIA fortunately was not very cooperative with the Task Force. When they are asked for specific documents, generally they would look to see if they had already sent them to Defense, then suggest that Defense go to the person who had received it. They did not allow anyone from the Task Force to come out to the Agency and they consistently turned off all fishing expeditions.
- (5) The damage assessment (attached) explains the cast of characters who was in charge and the CIA's evaluation from a parochial point of view. In Carver's opinion the writing must have been completed in the fall of 1968.
- (6) The most suspicious fact to Carver was that the whole package was forwarded (43 volumes or 47?) on January 15 which was a Wednesday before the inauguration took place on Monday which left only two working days in the old Administration.
- (7) The CIA was never given a set. The first they saw of the complete set was June 21, 1971. The first they got a copy was on July 1, 1971.
- (8) The CIA was not involved in any way in the Ellsberg case. I asked them if they knew about the former South Vietnamese Ambassador participating in the xeroxing of the material with Ellsberg. They had heard as much but were not involved in investigating him or anyone else. My question to Carver and to Osborne was what did they think was the best way to lean on the former South Vietnamese Ambassador. I explained that

he was now in Africa and Carver immediately got up and gave me a run-down on his personality and background. (Buzhardt had called for same earlier). Carver said it did not surprise him that he was working with Ellsberg; that he had been the South Vietnamese Ambassador to the U.S. 1965-68 and that he had a lot of good American friends. Carver suggested that perhaps the way to get to him to talk might be to do it through someone here who was his friend. I asked him to suggest names. He said to start with Bill Sullivan and Joe Mendenhall. Carver did not know exactly how well they knew him but that they certainly knew him.

(9) Carver gave some serious consideration to the theory that McNamara really only wanted the documents collected; that it was not his intention to have the narration as was finally done. It was odd that McNamara expected it to take six men only three months and that it wound up taking thirty-six men eighteen months.

(10) Carver said there could also be some plausibility to the theory that Halpern and Gelb set up Ellsberg.

(11) Carver noted that McNamara was only Secretary for about nine months after commissioning the work and that the last two or three months were spent wrapping-up and leaving so that in effect he really only was involved in the study for about six months. He may not even have been that aware of what was being done. Along the same line he noted that Clifford obviously had no chance to review them since there were only two days left. If he had he would have destroyed them because he was enough of a political animal to realize the danger to the Johnson Administration.

(12) Apparently, according to Buzhardt when they went to Clifford to get his set, they were still in the case in the vault in his law firm.

(13) Carver mentioned the names of people who were involved who might be able to shed more light on the whole preparation of the study. In addition to Warnke, Halpern, Gelb, he mentioned Charlie Cook and a Col. Fernim. [Buzhardt probably has a complete list.]

FUR

10a. DAVID YOUNG MEMORANDUM OF CONVERSATION,  
JULY 21, 1971

(14) I also brought up with Helms and Osborne the question of the delivery of the documents to the Soviet Union. According to an FBI report, this was done on June 17, 1971. They received 5,000 or 6,000 pages. Osborne said that he was not sure they were working on this but he would check. I asked if the Agency didn't have some way of trying to find out what came out at the other end and if for sure the papers had been received by the Soviet Union.

(15) On the delivery of the papers to the Soviet Union Helms said, "Well, I doubt very much if we will get to see it if it is a true report, but quite honestly we know the fellow who has been giving us these reports and we have our doubts about them."

FUR (16) One other person we should talk to at CIA is Paul Walsh. Another name we should note is Richard Ober, whom Osborne said was the liaison with the Justice Department on the whole Ellsberg case.

David R. Young 



11. On July 24, 1971, the President held a meeting with Ehrlichman and Krogh, to discuss efforts to identify the source of the SALT leak and the use of a polygraph on State Department personnel suspected of being the source of the leak. The President did not authorize the use of illegal means by the Unit.

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Memorandum of the options approved. After reconsideration, however, prompted by the opposition of Director Hoover, the agencies were notified 5 days later, on July 28, that the approval had been rescinded. The options initially approved had included resumption of certain intelligence operations which had been suspended in 1966. These in turn had included authorization for surreptitious entry—breaking and entering, in effect—on specified categories of targets in specified situations related to national security.

Because the approval was withdrawn before it had been implemented, the net result was that the plan for expanded intelligence activities never went into effect.

The documents spelling out this 1970 plan are extremely sensitive. They include—and are based upon—assessments of certain foreign intelligence capabilities and procedures, which of course must remain secret. It was this unused plan and related documents that John Dean removed from the White House and placed in a safe deposit box, giving the keys to Judge Sirica. The same plan, still unused, is being headlined today.

Coordination among our intelligence agencies continued to fall short of our national security needs. In July 1970, having earlier discontinued the FBI's liaison with the CIA, Director Hoover ended the FBI's normal liaison with all other agencies except the White House.

To help remedy this, an Intelligence Evaluation Committee was created in December 1970. Its members included representatives of the White House, CIA, FBI, NSA, the Departments of Justice, Treasury, and Defense, and the Secret Service.

The Intelligence Evaluation Committee and its staff were instructed to improve coordination among the intelligence community and to prepare evaluations and estimates of domestic intelligence. I understand that its activities are now under investigation. I did not authorize nor do I have any knowledge of any illegal activity by this Committee. If it went beyond its charter and did engage in any illegal activities, it was totally without my knowledge or authority.

#### THE SPECIAL INVESTIGATIONS UNIT

On Sunday, June 13, 1971, The New York Times published the first installment of what came to be known as "The Pentagon Papers." Not until a few hours before publication did any responsible Government official know that they had been stolen. Most officials did not know they existed. No senior official of the Government had read them or knew with certainty what they contained.

All the Government knew, at first, was that the papers comprised 47 volumes and some 7,000 pages, which had been taken from the most sensitive files of the Departments of State and Defense and the CIA, covering military and diplomatic moves in a war that was still going on.

Moreover, a majority of the documents published with the first three installments in The Times had not been included in the 47-volume study—raising serious questions about what and how much else might have been taken.

There was every reason to believe this was a security leak of unprecedented proportions.

It created a situation in which the ability of the Government to carry on foreign relations even in the best of circumstances could have been severely compromised. Other governments no longer knew whether they could deal with the United States in confidence. Against the background of the delicate negotiations the United States was then involved in on a number of fronts—with regard to Vietnam, China, the Middle East, nuclear arms limitations, U.S.-Soviet relations, and others—in which the utmost degree of confidentiality was vital, it posed a threat so grave as to require extraordinary actions.

Therefore during the week following the Pentagon Papers publication, I approved the creation of a Special Investigations Unit within the White House—which later came to be known as the "plumbers." This was a small group at the White House whose principal purpose was to stop security leaks and to investigate other sensitive security matters. I looked to John Ehrlichman for the supervision of this group.

Egil Krogh, Mr. Ehrlichman's assistant, was put in charge. David Young was added to this unit, as were E. Howard Hunt and G. Gordon Liddy.

The unit operated under extremely tight security rules. Its existence and functions were known only to a very few persons at the White House. These included Messrs. Haldeman, Ehrlichman, and Dean.

At about the time the unit was created, Daniel Ellsberg was identified as the person who had given the Pentagon Papers to The New York Times. I told Mr. Krogh that as a matter of first priority, the unit should find out all it could about Mr. Ellsberg's associates and his motives. Because of the extreme gravity of the situation, and not then knowing what additional national secrets Mr. Ellsberg might disclose, I did impress upon Mr. Krogh the vital importance to the national security of his assignment. I did not authorize and had no knowledge of any illegal means to be used to achieve this goal.

However, because of the emphasis I put on the crucial importance of protecting the national security, I can understand how highly motivated individuals could have felt justified in engaging in specific activities that I would have disapproved had they been brought to my attention. Consequently, as President, I must and do assume responsibility for such actions despite the fact that I at no time approved or had knowledge of them.

I also assigned the unit a number of other investigatory matters, dealing in part with compiling an accurate record of events related to the Vietnam war, on which the Government's records were inadequate (many previous



write a complete report on all that he knew of the entire Watergate matter. On March 28, I had Mr. Ehrlichman the Attorney General to find out if he had additional information about Watergate generally or White House involvement. The Attorney General was told that I wanted to hear directly from him, and not through any staff people, if he had any information on White House involvement or if information of that kind should come to him. The Attorney General indicated to Mr. Ehrlichman that he had no such information. When I learned on March 30 that Mr. Dean had been unable to complete his report, I instructed Mr. Ehrlichman to conduct an independent inquiry and bring all the facts to me. On April 14, Mr. Ehrlichman gave me his findings, and I directed that he report them to the Attorney General immediately. On April 15, Attorney General Kleindienst and Assistant Attorney General Petersen told me of new information that had been received by the prosecutors.

By that time the fragmentary information I had been given on March 21 had been supplemented in important ways, particularly by Mr. Ehrlichman's report to me on April 14, by the information Mr. Kleindienst and Mr. Petersen gave me on April 15, and by independent inquiries I had been making on my own. At that point, I realized that I would not be able personally to find out all of the facts and make them public, and I concluded that the matter was best handled by the Justice Department and the grand jury. On April 17, I announced that new inquiries were underway, as a result of what I had learned on March 21 and in my own investigation since that time. I instructed all Government employees to cooperate with the judicial process as it moved ahead on this matter and expressed my personal view that no immunity should be given to any individual who had held a position of major importance in this Administration.

My consistent position from the beginning has been to get out the facts about Watergate, not to cover them up.

On May 22 I said that at no time did I authorize any offer of executive clemency for the Watergate defendants, nor did I know of any such offer. I reaffirm that statement. Indeed, I made my view clear to Mr. Ehrlichman in July 1972, that under no circumstances could executive clemency be considered for those who participated in the Watergate break-in. I maintained that position throughout.

On May 22 I said that "it was not until the time of my own investigation that I learned of the break-in at the office of Mr. Ellsberg's psychiatrist, and I specifically authorized the furnishing of this information to Judge Byrne." After a very careful review, I have determined that this statement of mine is not precisely accurate. It is on March 17 that I first learned of the break-in at the office of Dr. Fielding, and that was 4 days before the beginning of my own investigation on March 21. I was

told then that nothing by way of evidence had been obtained in the break-in. On April 18 I learned that the Justice Department had interrogated or was going to interrogate Mr. Hunt about this break-in. I was gravely concerned that other activities of the Special Investigations Unit might be disclosed, because I knew this could seriously injure the national security. Consequently, I directed Mr. Petersen to stick to the Watergate investigation and stay out of national security matters. On April 25 Attorney General Kleindienst came to me and urged that the fact of the break-in should be disclosed to the court, despite the fact that, since no evidence had been obtained, the law did not clearly require it. I concurred and authorized him to report the break-in to Judge Byrne.

In view of the incident of Dr. Fielding's office, let me emphasize two things.

First, it was and is important that many of the matters worked on by the Special Investigations Unit not be publicly disclosed because disclosure would unquestionably damage the national security. This is why I have exercised executive privilege on some of these matters in connection with the testimony of Mr. Ehrlichman and others. The Senate Committee has learned through its investigation the general facts of some of these security matters and has to date wisely declined to make them public or to contest in these respects my claim of executive privilege.

Second, I at no time authorized the use of illegal means by the Special Investigations Unit, and I was not aware of the break-in of Dr. Fielding's office until March 17, 1973.

Many persons will ask why, when the facts are as I have stated them, I do not make public the tape recordings of my meetings and conversations with members of the White House Staff during this period.

I am aware that such terms as "separation of powers" and "executive privilege" are lawyers' terms, and that those doctrines have been called "abstruse" and "esoteric." Let me state the commonsense of the matter. Every day a President of the United States is required to make difficult decisions on grave issues. It is absolutely essential, if the President is to be able to do his job as the country expects, that he be able to talk openly and candidly with his advisers about issues and individuals and that they be able to talk in the same fashion with him. Indeed, on occasion, they must be able to "blow off steam" about important public figures. This kind of frank discussion is only possible when those who take part in it can feel assured that what they say is in the strictest confidence.

The Presidency is not the only office that requires confidentiality if it is to function effectively. A Member of Congress must be able to talk in confidence with his assistants. Judges must be able to confer in confidence with their law clerks and with each other. Throughout our entire history the need for this kind of confidentiality

1 Q Did the President, when the special unit was  
2 created -- or at any time thereafter -- ever suggest to you  
3 or to anyone else in your presence that criminal methods  
4 were to be employed by the members of this so-called  
5 Plumbers Group?

6 A No. Unless the use of the polygraph would be  
7 illegal. And I don't know whether it was or not.

8 But other than that, no.

9 Q What responsibility was given to Mr. Krogh,  
10 after he was assigned to the so-called Plumbers unit?

11 A Well, he had general responsibility for  
12 developing ways of determining who was responsible, and  
13 finding them, and causing them either to be discharged or  
otherwise brought to account.

15 Q What was Mr. Young's responsibility in connection  
16 with the same general area?

17 A Mr. Young was a sort of a co-Chairman of the  
18 effort. At the same time, he -- he understood, I believe,  
19 and Krogh understood -- and I know the President and I  
20 understood -- that Krogh was really the lead man in the  
21 operation.

22 Q How frequently did Mr. Krogh report to you on  
23 either of the -- either the activities or the proposed  
24 activities of the so-called Plumbers Group?

25 A Not too frequently. I can't give you a regular  
26 interval of time for reporting. We were, right at that  
27 particular time, about to launch the new economic policy.

28 If you'll remember, the 15th of August of that

# Text of Krogh's Letter of Resignation

5-10-78 NYT

Special to The New York Times

WASHINGTON, May 9—Following is the text of a letter of resignation submitted this morning to President Nixon by Egil Krogh Jr., Under Secretary of Transportation and former White House aide who has become implicated in the 1971 burglary of the office of Dr. Daniel Ellsberg's psychiatrist:

As I have confirmed in an affidavit filed with the U.S. District Court in Los Angeles, I agreed to a certain mission by employees of the special investigating unit which operated under my direction from the White House in 1971. As the sworn statement makes clear, agreement to this mission was my responsibility, a step taken in excess of instructions, and without the knowledge or permission of any superior.

Under the circumstances which prevailed in the summer of 1971, and based on the best information available to me at the time, I believed that my decision was dictated inescapably by the vital, national security interests of the United States.

I now see that this judgment may well have been in error, though prompted by what was then my highest

sense of right. Its consequences, to my eternal regret, have proved injurious both to a number of innocent persons and to that reverence for law on which our society is founded.

My overriding desire now is to accept full responsibility for my acts and decision and to assist in bringing all the facts and circumstances into the open so that a fair judgment of this activity can be rendered.

With public confidence in our Government already shaken by the Watergate affair, and with the complete affirmation of your personal integrity so imperative at this time, I cannot remain in the Administration while my role in the special investigating unit is submitted to the legal scrutiny it must now properly receive.

It is right that the men and women of the Department of Transportation have an Under Secretary who enjoys full public trust and can devote full time to his job. It is for these reasons that I submit my resignation as Under Secretary of Transportation.

The opportunity I have had to participate in your Administration during the past four

years has been the greatest experience of my life. In particular, it was rewarding for me as a member of your staff to have a hand in the establishment of your global program to combat narcotics and drug abuse and to work closely with the people of the District of Columbia during this period of great progress for the city.

My service at the Department of Transportation, though brief, has also brought priceless lessons and friendships with many superb public servants whom you can be proud to have on your team.

I leave the Government with great reluctance and sadness at the conclusion of a chapter that has meant so much, but also with the sincere hope that my actions in the coming days will contribute to the inexorable process of healing in which our country is now caught up.

Truth alone can bring the healing and make men free, and as best I can I am making truth my guide. I am grateful beyond words for the privilege of serving with you, and would welcome any occasion the future might bring for me to assist you personally or to re-enter the service of the United States.

guilty?

DEFENDANT KROGH: I plead guilty, Your Honor.

THE COURT: You tell me, in your own words,  
Mr. Krogh, what your involvement in this was.

DEFENDANT KROGH: Yes, sir.

As Director of the Special Investigations Unit,  
known as the Plumbers, I approved an operation which consisted  
of an entry without authority into the office premises of  
Dr. Lewis Fielding in order to acquire information regarding  
Dr. Ellsberg.

THE COURT: You were at that time familiar with the  
requirements of the Fourth Amendment?

DEFENDANT KROGH: Yes, sir.

THE COURT: Do I take it from what you say that you  
are satisfied for the Court to determine on the basis of what  
you have said to me and what is set forth here in this informa-  
tion that you acknowledge that you proceeded in a reckless  
disregard of constitutional prohibitions and guarantees of  
Dr. Fielding?

DEFENDANT KROGH: Yes, sir, I do.

THE COURT: Has anybody made any threats, representa-  
tions or promises to you of any kind to get you to plead  
guilty?

DEFENDANT KROGH: There have been no threats made to me  
at all, Your Honor.

12. On July 26, 1971, David Young attended a meeting at the State Department to discuss the specifics related to the preparation of the Pentagon Papers.

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12a. Memorandum for the record, July 26, 1971..... 116

THE WHITE HOUSE

WASHINGTON

July 26, 1971

MEMORANDUM FOR THE RECORD

PREPARED BY: David R. Young, 4:30 P. M.

SUBJECT: Meeting at the State Department Thursday, July 22, 1971;  
4:30 - 5:30 P. M.

PRESENT: Sam Gammon, Assistant to William Macomber  
Mr. Gentile, Deputy Assistant Secretary in Charge of  
Security  
A Legal Assistant to Charles Brower

I explained that I had come over to learn what the State Department had been doing in the wake of the Ellsberg Pentagon matter. I made it clear that I was not interested in the general study which was being conducted by the Rehnquist Committee but in the specifics related to the preparation of the Pentagon Papers.

Gammon explained that the State Department had reviewed the 47 volumes on three separate occasions since the whole case had broken. Their task was to determine what was harmful and damaging from their point of view to the national security. The first time was in response to a request from Mardian. This is what was used in the case finally presented in the Supreme Court. The second time was in response to a request from General Haig from San Clemente. The third time was in response to a request from Secretary Laird in connection with the overall Defense Department study.

In response to my questioning, the following answers were given:

(1) About eight of the thirty-two people named in a list of participants in the Task Force were either directly or indirectly connected with the State Department.

(2) None of the individuals ~~were~~ familiar with what exactly these people had done in the circumstances under which the request was made or the conditions under which they participated (apparently most of the eight persons involved are no longer in Washington).

FUR\*

(3) It was suggested that a good person who might shed light on the preparation of the study was Bill Sullivan.

(4) The State Department had two sets of the 47 volumes. They were, however, not sent to the State Department per se, but to two individuals -- namely Katzenbach and William Bundy. The materials were put in the State Department vault along with the other materials which had been stored there of these individuals.

(5) Katzenbach's set was apparently still in the crate in the State Department when all copies were seized by the Defense Department.

(6) It is not clear where Bundy's set was. Though, I have since learned from ISD that Charlie Cook was aware of Bundy's set and where it was located.

(7) Both Katzenbach and Bill Bundy have clearance as consultants so they could go back to the State Department and gain access to the materials.

The State Department is conducting an in-house review of its classification policies and procedures. This is in addition to their participation in the Rehnquist Committee (William Blair from the State Department is on both the Rehnquist Committee and State Department Committee). I am still awaiting an answer from the State Department on when the two sets of 47 volumes each were delivered to the State Department, who delivered them, who received them and where are they now.

---

5:15 P.M., July 26, 1971

I spoke with William Gammon in Mr. Macomber's office and Mr. Brock in the State Archives of the Executive Secretariat at the State Department:

(1) The Katzenbach set was delivered on July 30, 1969. It was addressed to Art Hartman who apparently had been a former staff assistant to Katzenbach. He simply sent it to the State Department General Files "Record Services Division" to be put with the rest of Katzenbach's files. The

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\*Follow-up Required

-2-

47-volume set came from the Department of Defense, but there is not yet any indication who at Defense sent it. When the Pentagon Papers case broke, the set was brought up to the State Archives of the Executive Secretariat and it is there now.

(2) There is no record of the time that the William Bundy set was received. He resigned on April 30, 1969 and it is possible that if it came before that time he could have signed for it and there would be no record. Again we have no record from whom it came from and we do not even have a receipt to show that it came from Defense. However, the set was again sent to the General State Department Files "Record Services Division." When the whole Pentagon Papers case broke, the Bundy set was picked up from Record Services Division and is now in the Vietnam Section of the East Asian Affairs Department.

(3) Both of the above sets have a memorandum for the record from Gelb attached setting forth the distribution of the set, which was as follows:

- a. LBJ Library
- b. JFK Library
- c. Clark Clifford
- d. Paul Nitze
- e. Robert McNamara
- f. Paul Warnke
- g. William Bundy
- h. Nicholas Katzenbach
- i. Henry Kissinger
- j. OSD/ISA/Gelb
- k. DOD Archives

FUR      The crucial question here seems to be why a cover memorandum supposedly transmitting the 47 volumes was dated January 14, 1969, when in fact the 47 volumes (at least Katzenbach's copy) was not delivered until July 30, 1969.

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\*Follow-up Required



13. On July 26, 1971, Colson sent a memorandum to Ehrlichman recommending that a study be prepared of Top Secret leaks that appeared in the New York Times and suggesting that Krogh and Young could do this.

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13a. Memorandum from Colson to Ehrlichman, July 26, 1971.. 120

July 26, 1971

MEMORANDUM FOR:                   JOHN EHRLICHMAN  
FROM:                               CHARLES COLSON

Someone should have a study prepared of the number of Top Secret leaks that have appeared in the New York Times over the last few months. Obviously there is an open pipeline.

Is this something we should ask Krogh to do? I would think that Dave Young could research it.

The one which John Scali told me about yesterday, while serious is but one of a series over recent weeks, many of which have come through Tad Slucz.

14. On July 28, 1971, Young prepared a memorandum for the record summarizing a meeting he attended concerning overall White House direction of the matters surrounding the Ellsberg inquiry.

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THE WHITE HOUSE

WASHINGTON

July 28, 1971

MEMORANDUM FOR THE RECORD

PREPARED BY: DAVID R. YOUNG

SUBJECT: Meeting on 7/28/71 at 9:30 - 10:15 a.m.

PRESENT: Attorney General Mitchell  
Richard Kleindienst  
John D. Ehrlichman  
Robert Mardian  
Egil Krogh, Jr.  
David R. Young

The following is an outline of the main points discussed and decisions made:

(1) Mr. Ehrlichman set forth the President's concern that there be overall White House direction of the matters surrounding the Ellsberg inquiry.

(2) Mr. Ehrlichman added that the organization chart which had been drawn up in Mardian's shop indicating that the Internal Security Division of DOJ had overall control, was not appropriate.

(3) The Attorney General agreed that the White House should have overall direction. However, he did want to make it clear that he was giving his consent on the basis that John Ehrlichman would have overall direction and that a certain individual who he considered to have poor political judgment not be involved.

(4) Mardian agreed to overall White House direction and suggested that one of our men be detailed to work with his staff.

(5) The Attorney General then asked about the status of the Beecher "SALT leak" article and was brought up-to-date on the polygraphing of one individual from Defense and three from State. It was his surmise that one part of the article came from someone who was in the NSC meeting in the Roosevelt Room.

14a. DAVID YOUNG MEMORANDUM, JULY 28, 1971

After the meeting when Mr. Ehrlichman was alone with the Attorney General, he gave him a copy of our revised organization information flow chart.



15. On July 30, 1971, Krogh and Young sent a memorandum to Ehrlichman on the status of the Ellsberg inquiry.

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15a. EGIL KROGH AND DAVID YOUNG MEMORANDUM,  
JULY 30, 1971

THE WHITE HOUSE

WASHINGTON

July 30, 1971

MEMORANDUM FOR: JOHN D. EHRLICHMAN  
FROM: EGIL KROGH, JR. AND DAVID R. YOUNG  
SUBJECT: STATUS OF ELLSBERG ET AL. INQUIRY AS OF JULY 30, 1971

The following is an initial report on what we have found out, what we set up in order to monitor and give direction to the bureaucracy and what actions we have taken.

Operations Underway

- (1) We have had meetings with the Departments of Defense, State, Justice and the CIA, to determine what each is doing in the wake of the Pentagon Papers case. In addition to the general classification and declassification study being carried out by the Rehnquist Committee, each department has set up a committee to review its clearance procedures and each is in the process of preparing damage assessments.
- (2) We have established a liaison relationship with Justice and Defense in order for us to be fed the information which they are developing in their various investigations. We will also be able to initiate the investigation of leads through this channel.
- (3) The specific projects which have been undertaken by the departments are as follows:
  - (A) Defense is conducting:
    - (i) A detailed analysis of the preparation of the Study and the track of its distribution;
    - (ii) An analysis of the published material to determine what parts of the Study have been published and what proportion has come from other classified sources;
    - (iii) An investigation of all individuals still in the military or defense related positions who participated in the Study;
    - (iv) An investigation of the security arrangements at RAND and is inventorying all its documents.



(B) Justice:

(i) The Criminal Prosecution Section of the Internal Security Division is pursuing U.S. v. Ellsberg;

(ii) The FBI is investigating all individuals in connection with U.S. v. Ellsberg;

(iii) The Internal Security Division is doing an analysis and evaluation of all information gathered on Ellsberg and associated individuals.

(4) An overall study of the classification and declassification system under NSSM 113 is being done by the Rehnquist Interdepartmental Committee. (A preliminary report by them for a new system of classification is attached.)

Actions Taken

(1) The FBI has been asked to expand its investigation to cover all non-Defense related individuals connected with the preparation of the Study and to follow-up any other leads falling out of the investigations in the U.S. v. Ellsberg case itself.

(2) We have instructed the CIA to do a thorough psychological study on Ellsberg. ✓

(3) We have asked Mr. Smyser for an opinion (for Henry A. Kissinger) on the relationship of timing between October South Vietnam election and the political exploitation of the Democrats' involvement in the 1963 coup against Diem. (Initial oral reaction is that it would be disastrous for us to put anything out before the South Vietnam election.)



16. On August 9, 1971, Young attended a meeting at CIA headquarters to discuss the problem of leaks.

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16a. Young Memorandum for the record, August 9, 1971.. 130

THE WHITE HOUSE

WASHINGTON

August 9, 1971

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting with Howard Osborn and Mr. Paisley at  
CIA Headquarters, 3:00 P.M., August 9, 1971

I met with Howard Osborn and a Mr. Paisley to review what it was that we wanted CIA to do in connection with their files on leaks from January, 1969 to the present.

I reviewed the need for us to gain a data base on all leaks at least since January of 1969. It was decided that Mr. Paisley would get this done by next Monday, August 16, 1971, utilizing the running file which the USIB Subcommittee has maintained on leaks.

The specific questions, at least as a starter, which Paisley will attempt to answer are as follows:

- (1) Frequency of leaks associated with particular writers.
- (2) The gravity of leaks.
- (3) The relationship between leaks and, for example, the likelihood of a SALT agreement.
- (4) The frequency with which particular bureaucracies are involved.
- (5) Comparison of the frequency and gravity of leaks in this Administration with the frequency and gravity of leaks in previous Administrations.
- (6) The recurrence of particular motives.

- (7) The use of Congress as a vehicle to leak.
- (8) Comparison of leaks which occur overseas with those which occur at home.
- (9) Estimate of proportion of leaks which are pro-Administration with those which are anti-Administration.
- (10) Estimate of number of leaks which are deliberately planted by the Administration.
- (11) Estimate of number of leaks which come from one source in comparison with leaks which are pieced together from several sources.
- (12) Comparison of number of leaks which put out essentially correct information with comparison of number of leaks which put out essentially incorrect information.
- (13) Breakdown of subject areas which seem to have the heaviest concentration of leaks.
- (14) Breakdown of level of officials leaking.

The above questions should be reviewed with Paisley within the next two days. It should also be made clear that there must be given definitions in this study.

The New York Times exhibit and The Washington Post exhibit will also be made available to CIA in order to feed it into their data base, and we should also get State Department's leak file and Defense Department's leak file.

David Young



17. On August 13, 1971, Young and Krogh sent a memorandum to Ehrlichman indicating that an attached newspaper article endangered the life of a clandestine CIA operative.

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ODESSA

August 13, 1971

MEMORANDUM FOR: JOHN EHRLICHMAN

FROM: BUD KROGH AND DAVID R. YOUNG

SUBJECT: The Attached Article in Today's New York Times  
and Director Helms' Call of this Morning Indicating  
that this is a Direct Leak of Information from a  
Clandestine Source and it Puts the Source's Life in  
Danger

As you know, we conducted extensive interviews at State and Defense in  
the Beecher/SALT leak, but with unsatisfactory results.

We understand that CIA feels it could have gotten to the source of the SALT  
leak if we had told them to go all out for one month to identify the soft spot.  
We feel that now we have an opportunity to give CIA the mission of tracking  
down the source of this leak. Our reasons are:

(1) CIA possesses implicit authorization to investigate breaches of its  
own internal security of which the attached represents a major incident.

In our judgment, we should authorize CIA to nail down the source of this  
leak dealing with the other departments through us.

(2) The FBI has been out of the clandestine business for five years and  
we are most reliably informed it would take an unacceptable amount of  
time for the Bureau to gear up for such an operation.

If the FBI lacks capability to undertake the mission and as Hoover is most  
sensitive about CIA encroachment on the domestic preserve, this decision,  
if taken, should not be made known to Hoover or Mardian, or anyone at  
State or Defense.

RECOMMENDATION:

That you advise Helms immediately following the NSC meeting that we  
would like him to begin this operation to identify the source of this leak  
immediately, and that you will so inform the President.



# Soviet Move to Avert War Is Seen in Pact With India

BY TAO SZULC

Special to The New York Times

WASHINGTON, Aug. 12 — Officials of the United States have been exchanged between the two countries. The reports received in Washington said that India had succeeded in dissuading the Soviet Union from formally recognizing East Pakistan as an independent state. The Soviet Union had planned to recognize Bangladesh on Aug. 10, three days ago by quickly signing a friendship treaty with India.

They said the 20-year treaty of peace, friendship and cooperation signed in New Delhi on Monday by Foreign Minister Andrei A. Gromyko appeared to be the price for an indefinite delay in India's plans to recognize East Pakistan, or Bangladesh. Mrs. Gromyko rushed to the Indian capital during the weekend on two days' notice to sign the treaty.

According to intelligence reports submitted to President Nixon on Monday, the Soviet Union had warned the Indian Government that recognition of Bangladesh could precipitate a war between India and Pakistan.

## Suppression Began March 25

Bangladesh is the name given to East Pakistan by its separatist Bengalis, who have India's open support. Pakistan has sought to suppress the separatist movement since March 25 through military action, which, according to estimates accepted by the United States Government, has resulted in close to 200,000 deaths and more than seven million refugees.

The controversy over East Pakistan has created deep tensions between Pakistan and India, partly because the millions of refugees are a vast burden on India, and threats of a war

are known to be supported from the Indian side. According to these reports, the message on the planned recognition was delivered in Moscow by Durga Prasad Dhar, former Indian ambassador to the Soviet Union, apparently

Continued on Page 6, Column 2

acting as special envoy for Prime Minister Indira Gandhi. Mr. Dhar flew to Moscow on Aug. 2.

American intelligence and diplomatic reports said that Mr. Gromyko had told Mr. Dhar that India should act with caution, warning that recognition of Bangladesh could provoke a war.

The next step, American sources reported, was for Mr. Gromyko to propose that he visit New Delhi as soon as possible for talks with Mrs. Gandhi and Foreign Minister Swaran Singh. The visit was officially announced last Friday and Mr. Gromyko arrived Sunday.

Mr. Gromyko was reported to have told Indian representatives in Moscow that he would use "whatever pressure is necessary" to dissuade Mrs. Gandhi from recognizing Bangladesh now.

American sources said they understood Moscow was prepared to provide India with additional economic and military aid as a demonstration of support in her dispute with Pakistan.

At the same time, however, the Soviet Union was determined to discourage any drastic steps by India that might cause an Indian-Pakistani war.

Officials here recalled that President Agha Mohammad Yahya Khan recently warned that war with India was "very near." He had said that if India helped the East Pakistani separatists to seize the state, it would be regarded as an Indian attack on Pakistan and the cause for a war.

In recent weeks, working independently, the United States, Britain, the Soviet Union and

# Soviet Move to Avert War Seen in Friendship Pact With India

China have engaged in diplomatic efforts to cool the tensions in India and Pakistan and avert an outbreak of hostilities. Washington has publicly counseled restraint to both Governments.

China, which has close ties with Pakistan, was reported by diplomats last week to have been quietly advising President Yahya to proceed with caution.

American officials surmised that Mr. Gromyko was successful in persuading India when he agreed to sign the friendship treaty immediately. The pact, it was understood, had been under negotiation for a number of months but Moscow had not been prepared to sign so quickly.

Authoritative sources said, however, that India was eager to sign at once in the light of her mounting dispute with Pakistan. The two countries

fought a brief war in 1965, and the Indians were believed to regard the Soviet pact as a guarantee of her present security. Soviet mediation helped to end the 1965 conflict.

It was not known here whether the Soviet Union had also agreed to provide India with new economic and military aid.

State Department officials said that India had not notified the United States in advance of a plan to recognize Bangla Desh and that they were not aware of any Soviet effort to pass this information on to Washington.

Robert J. McCloskey, the department's spokesman, said today that the Soviet Union and the United States were not in touch over the Indian-Pakistani dispute. He was asked the question at the regular daily news briefing, without reference to

the intelligence reports on the Soviet role in the controversy. The Indian Government went out of its way yesterday to assure Secretary of State William P. Rogers that its new treaty or its allies. The assurances were conveyed by Ambassador Lakshmi Kant Jha and were reported accepted by Mr. Rogers.

American officials cautioned, however, that the Indian-Pakistani tensions were not likely to diminish in the foreseeable future even if New Delhi continued to withhold recognition from Bangla Desh.

Intelligence specialists noted that Mrs. Gandhi was under pressure at home to recognize the rebel state and to give the guerrillas even greater assistance in their efforts to end West Pakistani control of East Pakistan.

This pressure, they said, is

likely to increase with guerrilla activities and the problems posed by the refugees.

The United States agrees with India that the East Pakistani crisis can be solved only through a political accommodation under which President Yahya would grant the region autonomy. But it is recognized here that such an accommodation under which President Yahya would grant the region autonomy, possible in view of the mounting guerrilla war.

**Betrayal of Rebels Charged**  
NEW DELHI, Aug. 12 (Reuters). An Indian political leader today accused his country and the Soviet Union of stabbing Bangla Desh.

Atal Bihari Vajpayee, leader of the right-wing Jan Sangh party charged at a rally that there was no mention of Bangla Desh in a Soviet-India issue yesterday.

"On the contrary, it discusses the interests of the entire people of Pakistan. Mr. Vajpayee declared. "This is a stab in the back of Bangla Desh and amounts to support for the indivisibility of Pakistan."

18. Ehrlichman testified that he first learned of the Ellsberg break-  
in when he returned from a vacation on Cape Cod and that was a few  
days after the event.

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Mr. EHRLICHMAN. He was asking me to make sure that that didn't happen.

Mr. DASH. Did you?

Mr. EHRLICHMAN. I believe I did.

Mr. DASH. How?

Mr. EHRLICHMAN. By a phone call.

Mr. DASH. To whom?

Mr. EHRLICHMAN. I can't recall, I am sorry to tell you.

Mr. DASH. If you could, we might know who authorized it.

Mr. EHRLICHMAN. Out of fairness—I could give you a list of people it might have been, but it has been so long ago, I can't remember who it was, but it was whoever he suggested that I call.

Mr. DASH. I don't want to go into a guessing game. But Mr. Dean did say that it was his understanding that it was Mr. Colson who authorized it and that is a name that he had given to you.

Mr. EHRLICHMAN. I can't testify of my own recollection on that and out of fairness to whoever is involved, I certainly would not want to lay before the committee a name here, because I can't vouch for it. I do remember the episode.

Mr. DASH. And you cut it off?

Mr. EHRLICHMAN. I believe that did it. He was just, really, looking for somebody to give a little clout to his feeling that it shouldn't happen.

Mr. DASH. I think you did indicate that you were aware of Tony Ulasewicz' assignments, either for the White House or for some person at the White House?

Mr. EHRLICHMAN. I don't know. My relationship with him, so to speak, ended at the time that I shifted jobs, in early 1970. He was a kind of facility of the counsel's office and he sort of went with the job.

Mr. DASH. Now, you did become aware at this point, I don't want to go into this specifically—of the activities of staff members of the special investigations unit, Mr. Hunt, and Mr. Liddy, with regard to the office of Mr. Ellsberg's psychiatrist?

Mr. EHRLICHMAN. Yes, I did.

Mr. DASH. And when did the so-called break in of the Ellsberg psychiatrist take place?

Mr. EHRLICHMAN. I have heard two dates, but it was around Labor Day of 1971.

Mr. DASH. And I take it that was a fact-gathering project?

Mr. EHRLICHMAN. That was the fact-gathering project that I mentioned before in relation to the theft of the secrets and the turnover to the Russians and the dilemma we had of the Bureau not moving on this.

Mr. DASH. And when do you say that you learned of that break in?

Mr. EHRLICHMAN. Within a day or two after my return from a Labor Day trip to Cape Cod.

Mr. DASH. Now, in the fall of 1971, did you also learn of the so-called Sandwedge plan which had been proposed for political intelligence gathering?

Mr. EHRLICHMAN. I don't know exactly when that was. Is the date important to you? I could look for it.

Mr. DASH. No, I am more interested in what you knew or learned of Mr. Caulfield's recommendations.

19. Following a National Security Council meeting on March 28, 1969, the President directed that the several studies be conducted on alternative solutions to the Vietnam War. One alternative to be studied was a unilateral troop withdrawal. The study directive was issued on April 1, 1969 and on April 6, 1969, the New York Times printed an article by Max Frankel indicating that the United States was considering unilateral withdrawal from Vietnam. At the time the article was published no official discussions regarding this alternative had been taken up with the government of South Vietnam.

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# NIXON HAS BEGUN PROGRAM TO END WAR IN VIETNAM

Secret Talks and Increased  
South Vietnamese Effort  
Called Parts of Plan

'VICTORY' DOWNGRADED

Shift in Tactics Would Cut  
U.S. Casualties and Allow  
Pullout of Some Troops

By MAX FRANKEL  
Special to The New York Times

WASHINGTON, April 5--The Nixon Administration has set in motion an essentially secret program of diplomatic and military measures designed to extricate the United States from Vietnam.

Officials here confirm the adoption of a new approach to the war but refuse to discuss its details. They predict, however, that their approach will become evident by the end of 1969, presumably through a decline in the rate of American casualties and the recall of some American troops.

The current and partly known efforts to arrange secret talks in Paris and to turn over more combat assignments to South Vietnamese units in the war zone are said to be part of the Administration's program, but only a part.

## Speak of Gradual Change

Informed officials here also talk about a gradual change of military tactics to reduce casualties while providing greater security for some of South Vietnam's major population centers.

As described here, this change would confirm Washington's readiness to settle for something less than military victory, but it would also buy time for negotiations and the evolution of new political processes in South Vietnam before the final American pullout.

It is still not clear here how much progress has been made in recent days to arrange secret talks, both between Washington and Hanoi and between the Saigon Government and the National Liberation Front, or Vietcong. But senior officials contend that every conversation in Paris, many consultations with Moscow and, the course of the battle itself are now an essential part of the maneuvering by both sides.

## Objectives Coordinated

They also contend that American military measures are now geared to diplomatic objectives and that "negotiations" in the largest sense are therefore under way.

It is not clear either whether the announced 10 per cent cutback in B-52 bombing raids in South Vietnam had a clear diplomatic purpose as a part of this program. Defense Secretary Melvin R. Laird represented the cutback as an economy meas-

ture. Some officials have encouraged speculation that it was a signal to Hanoi, but others say the cutback was only a budget measure that was mistakenly announced at an awkward moment.

Yet despite the secrecy here surrounding some of the specific diplomatic and military gestures toward the North Vietnamese, senior officials have been saying enough both in public and private to reveal their basic assumptions and objectives at this stage.

They start with the assumption that Hanoi is seriously interested in a settlement that would yield it something less than a takeover of South Vietnam by force. But in pressing the search for such a settlement, the Administration's planners also wish to prepare a fallback position, that is, a tenable alternative in case negotiation fails.

Hanoi's interest in negotiation is thought to flow from a combination of pressures: a degree of military and economic exhaustion; fear of a loss of Soviet support because of other crises, particularly Moscow's conflict with Peking, and realization that American forces

cannot be defeated or forced to withdraw from South Vietnam. If Mr. Nixon succeeds in appeasing domestic public opinion.

Moreover, officials here still count on some marginal, though secret, Soviet support in arranging a settlement. They think that Moscow would favor a compromise that vindicates neither American intervention in Vietnam nor the guerrilla warfare habitually endorsed by Communist China.

If they can get substantial negotiations, Administration officials would want to arrange for a schedule of mutual troop withdrawals by North Vietnam and the United States while the political future of South Vietnam is left to the talks between the Saigon Government and the National Liberation Front.

Indirect diplomatic exchanges appear to have left officials here with the impression that the Front is prepared to deal with the Saigon Government, at least long enough to work out some new political processes.

#### Shift by Saigon Is Seen

And the attitude of the Saigon Government is said to have changed remarkably in

recent weeks as the Nixon Administration privately made plain its determination to move toward disengagement. American officials do not now expect the Saigon regime to obstruct agreements for the withdrawal of outside forces.

The Saigon leaders also are said now to understand the need to strengthen their political and military position against the day when they must cope alone with their rivals.

Public pressure on Saigon is thought here to be self-defeating, because it helps Hanoi's campaign to undermine the existing South Vietnamese Government. But the private prodding has continued; President Nixon is said to have remarked that it may be difficult to make peace with Saigon but it will be impossible to make peace without Saigon.

Behind that comment, and behind the entire Nixon approach to the war as described here, lies the Administration's judgement that the United States cannot simply withdraw and let Saigon fall to armed insurgence or invaders.

The Administration is no unalterably committed to the existing Saigon Government, but it has concluded that the invest-

ment of more than 500,000 American troops and of solemn American commitments must be redeemed in some minimal way regardless of the merits of the initial involvement.

It is not known whether the President has tried to define his minimum terms. But some of his senior officials say that they have concluded that there must be some genuine "self-determination" in South Vietnam and not merely some arrangement that camouflages a Vietcong victory by force of arms.

Therefore, the Administration appears to be seeking a phased withdrawal of American and North Vietnamese troops over a period of time long enough to let new political processes develop in South Vietnam. Simultaneously, it is contemplating the possible need for an even slower pace of American withdrawal if negotiations are unproductive.

Officials refused to discuss the numbers of troops that they might recall even if negotiations fail. Some estimates have ranged from 50,000 to 100,000 over the next 18 months; some estimates have been even greater. Officials say they will not talk about these numbers because they do

not wish to undermine the talks with Hanoi about mutual withdrawal.

But it is clear that the Administration is definitely thinking of unilateral withdrawals of some magnitude as an alternative to a negotiated settlement.

Either way, therefore, the American military deployments in South Vietnam will henceforth be designed to hasten the day of South Vietnam's self-sufficiency, to give American public opinion a sense of progress and diminishing cost

and thus to reinforce the interest of Hanoi and the National Liberation Front in a negotiated settlement.

Officials here say they see no major difficulty with various parts of their plan—that is, in the separate policies it implies for dealing with Hanoi, Moscow, Saigon and American opinion. The main difficulty at the moment, they say, is moving simultaneously on several fronts and making certain that each step in different directions supports the long-range objective.



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DANIEL ELLSBERG, et al., )  
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 Plaintiffs, )  
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 v. ) Civil Action No. 1879-72  
 )  
 JOHN N. MITCHELL, et al., )  
 )  
 Defendants. )  
 )

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the fundamental approach to major foreign policy issues such as the United States' strategic posture, Strategic Arms Limitation Talks (SALT), Vietnam and many other national security issues. Because of the sensitive nature of these matters, the secrecy of each was of vital importance and the success or failure of each program turned in many instances upon the maintenance of the necessary security. However, notwithstanding the critical need for such security during this period, we were confronted with leaks to the press of information of the greatest importance to the national security. These leaks included discussions of National Security Council deliberations, intelligence information, negotiating positions and specific military operations. In several cases, significant consequences resulted from these premature releases of internal policy deliberations. In addition, the release of such classified information had obvious benefit for potential enemies of this country. Of particular concern to the President were news leaks which occurred from early April until June of 1969, involving Vietnam policy, strategic arms and the Okinawa reversion.

4. With respect to Vietnam, where the President was determining his broad policy for dealing with the war, both as to negotiating positions and military strategy, news leaks regarding such plans appeared frequently in the press. For example, following a meeting of the National Security Council on March 28, 1969, the President directed that studies be conducted on several subjects associated with a settlement of the war in Vietnam, including a study of alternatives for a unilateral

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withdrawal. The study directive was issued on April 1, 1969, and within a week thereafter an article appeared in the New York Times on April 6, 1969, by Max Frankel revealing that the Government was considering unilateral withdrawal from Vietnam. Similarly, in May of 1969 it was decided that the United States could make an initial troop withdrawal from Vietnam, and shortly thereafter articles appeared by George Sherman in the June 3, 1969, edition of The Evening Star, and by Hedrick Smith in the June 4, 1969, New York Times, forecasting this decision and announcing that it would be made public following the President's meeting with South Vietnam's President Nguyen Van Thieu on Midway Island the following Sunday.

Each of the above disclosures was extremely damaging with respect to this Government's relationship and credibility with its allies. Although the initial troop withdrawal increment was small, the decision was extremely important in that it reflected a fundamental change in United States policy. For the South Vietnamese government to hear publicly of our apparent willingness to consider unilateral withdrawals, without first discussing such an approach with them, raised a serious question as to our reliability and credibility as an ally. Similarly, though in a reverse context, these disclosures likewise impaired our ability to carry on private discussions with the North Vietnamese, because of their concern that negotiations could not, in fact, be conducted in absolute secrecy.

Militarily, a decision was made in early March of 1969 to conduct a series of B-52 bombing raids on North Vietnamese sanctuaries just inside the border of Cambodia. Because of the sensitivity associated with Cambodian neutrality and the tacit support for such action by Cambodia's

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Prince Norodom Sihanouk, it was extremely important for diplomatic reasons that these raids remain secret and stringent security precautions were taken to ensure that this military operation was not publicly disclosed. Yet notwithstanding all such efforts to maintain the security of this operation, an article appeared in the May 9, 1969, edition of the New York Times by William Beecher, attributed to Administration sources, accurately summarizing the conduct of these raids. While there were obvious adverse diplomatic repercussions from this disclosure, its greatest effect was to raise a serious question in the mind of the President as to the ability of the Government to maintain the necessary security required for this and other sensitive military and diplomatic operations, and whether in the future he could make critical foreign policy decisions on the basis of full and frank discussions.

5. Several other examples of critically sensitive press disclosures occurred during this period with regard to the development of our position on strategic arms in preparation for SALT negotiations with the Soviet Union.

First, on January 20, 1969, the President directed that an overall study be conducted of the United States' strategic force posture. A fundamental requirement of this study was to determine what programs should be adopted to ensure the credibility of this country's deterrent capability. The study was conducted and included an analysis of five options to support strategies ranging from emphasis on offensive capabilities at one end, to heavy reliance on anti-ballistic missile systems at the other. Cost estimates for each of the alternative force postures were included. Notwithstanding the obvious need for strict security in the preparation and handling of this report, an article by William Beecher appeared in the

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New York Times on May 1, 1969 -- prior to consideration of the report by the National Security Council -- setting forth an accurate description of the options as well as a close estimate of the range of costs involved.

In addition to the above study, the United States Intelligence Board (USIB), composed of representatives of the intelligence community, had been engaged for several months in an analysis of the Soviet Union's testing of missiles, and in early June of 1969 concluded their review and issued a report, which was extremely closely held, setting forth their estimate of the Soviet Union's strategic strength and possible first strike capability. Because the USIB's assessment varied in its degrees of certainty from earlier statements and reports made by other defense experts in support of the need for the Safeguard ABM System, any public disclosure of the USIB report would provide a useful signal to the Soviet Union as to the disagreement within our Government and the efficacy of our intelligence system. It would also prematurely reveal the intelligence basis on which we were developing our position for the impending strategic arms talks. On June 18, 1969, the fact of the interagency disagreement and opposing agency positions were printed in a New York Times article by Peter Grose.

Each of these disclosures was of the most extreme gravity. As presentations of the government's thinking on these key issues, they provided the Soviet Union with extensive insight as to our approach to the SALT negotiations and severely compromised our assessments of the Soviet Union's missile testing and our apparent inability to accurately assess their exact capabilities. Perhaps more important, evidence of leaks of such closely held intelligence assessments raised serious questions

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as to the integrity of the USIB and created severe doubts about our ability to maintain security in deliberations on national security policy.

6. Also of serious concern during this period was a press leak involving this country's policy toward Japan and our strategy for negotiations on the reversion of Okinawa. Following a late April meeting of the National Security Council, a National Security Decision Memorandum was issued on May 28, 1969, outlining this country's policy toward Japan, and particularly our negotiating strategy with respect to the reversion of Okinawa. This memorandum set forth our desire to retain nuclear weapons on Okinawa but stated, as a fallback position, that we would be prepared to consider the withdrawal of these weapons while retaining the storage and transit rights. Shortly after this memorandum was completed, and prior to the negotiations with the Japanese, an article by Hedrick Smith appeared in the New York Times on June 3, 1969, stating that the President had decided to remove nuclear weapons from Okinawa once an overall plan to return the Island had been agreed upon. The article noted that the President's decision had not yet been communicated formally to the Japanese Government. The consequences of this disclosure, attributed to well-placed informants, in terms of compromising negotiating tactics, prejudicing the Government's interest, and complicating our relations with Japan were obvious, and clearly preempted any opportunity we might have had for obtaining a more favorable outcome during our negotiations with the Japanese.

7. In early May, 1969, after the first several unauthorized disclosures of classified information had occurred, the President consulted the then Director of the Federal Bureau of Investigation, J. Edgar Hoover, and the then Attorney General of the United States, John N. Mitchell, concerning methods to be employed to deal with the problem. The President was told

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by Mr. Hoover that the most effective method was that which had been followed in previous Administrations, namely the conduct of electronic surveillance in accordance with specific procedures. The President was assured by Attorney General Mitchell that such action would be in compliance with law.

My office was required by the President to submit the names of those officials who had had access to the information which had been leaked. Obviously, my office was a natural place for this information to exist; and Dr. Halperin, in his position as Chief of the National Security Council Planning Group, was unquestionably one of several persons who had had access to such information.

8. As a result of this position, which he held until September 20, 1969, and as a consultant to the National Security Council until May 13, 1970, Dr. Halperin received extensive exposure to classified information, much of which remains confidential to this day.

Dr. Halperin was involved in the organization, substantive preparation and processing of National Security Council policy reviews, and his assignments gave him access to fundamental policy issues during the formative and crucial early months of 1969. During the period from January until May 1969, Dr. Halperin regularly participated, in conjunction with the responsible staff area specialists, in sensitive National Security Council studies. In addition, he also frequently attended National Security Council Review Group Meetings, which I chaired, and which considered a variety of subjects, including the United States strategic posture, strategic arms negotiations, Vietnam, the Middle East and United States trade policies, to name only a few. Dr. Halperin also participated in the preparation of papers for the President's use at meetings

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with the National Security Council covering a wide range of issues. While performing the above responsibilities, Dr. Halperin devoted particular attention to several speciality areas, including the United States' strategic posture, the SALT negotiations and the war in Vietnam. To maintain his currency in each of these areas, Dr. Halperin regularly received cables to and from our Embassies, including limited distribution cables on Vietnam and the Paris negotiations, as well as daily intelligence reports and sensitive intelligence publications.

9. Dr. Halperin's name and the names of other individuals were provided to the Federal Bureau of Investigation for their investigation. On May 13, 1969, I received a letter from Director Hoover indicating that on the basis of independent information available to him, it appeared probable that recent leaks had come "from a staff member such as Morton H. Halperin of the National Security Council." Director Hoover further stated specifically that "we should not ignore the possibility that Halperin . . . could be the source of a leak" and that he therefore had alerted the Bureau's most sensitive sources (i. e., electronic surveillance).

10. However, notwithstanding the investigation of Dr. Halperin and others being conducted by the Federal Bureau of Investigation, and additional governmental efforts to curb the unauthorized disclosure of classified information, press leaks involving Southeast Asia, SALT, the Middle East, NATO and other national security matters continued through 1969, 1970 and 1971. Such disclosures necessitated issuing a memorandum on May 23, 1970, to several government agencies regarding the SALT negotiations, in which I stated that:

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Vital national interests are being jeopardized by leaks to the press concerning the strategic arms limitation talks. No one in the Government is authorized to divulge the United States or Soviet positions to the press or to speculate concerning United States' intentions with respect to the negotiations.


The President has directed that immediate steps be taken to ensure that standing directives concerning leaks are adhered to without exception by personnel under your jurisdiction. Prompt and severe disciplinary action is to be taken in the event of violations.

Throughout this period, leaks of information which could have serious adverse effects upon our national security and our relations with our allies continued.

11. From the commencement of the electronic surveillance of Dr. Halperin in May of 1969 until May, 1970, I was provided periodic summaries of the information gained from this surveillance of his conversations which the Federal Bureau of Investigation determined to involve national security. However, in late May of 1970, it was decided that such reports would be directed to the office of Mr. H. R. Haldeman, then an Assistant to the President, and that Mr. Haldeman would advise the President, General Haig, then an assistant on my staff, or myself, of information that required our attention. In addition, an informal liaison was maintained between Mr. Sullivan of the Federal Bureau of Investigation and General Haig of my staff, and if the surveillance of Dr. Halperin developed information of sufficient gravity, Mr. Sullivan would call General Haig and either inform him of that fact or call his attention to the fact that a report containing that information had been sent to Mr. Haldeman. I remember only one such event, but there may have been others.

  
HENRY A. KISSINGER

Subscribed and sworn to before me this 26<sup>th</sup> day of November, 1973.

  
Notary Public

My Commission expires May 31, 1978



20. On June 3, 1969, shortly after the decision had been reached to begin withdrawal of troops from Vietnam, George Sherman reported the decision in The Evening Star and indicated that it would be made public following the President's meeting with South Vietnam's President Nguyen Van Thieu. Hedrick Smith made a similar advance release in the June 4, 1969, New York Times. The decision to begin withdrawing troops had not been formally discussed with the South Vietnamese at the time of the disclosure.

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## NIXON-THIEU TALK MAY BRING ACCORD ON U.S. TROOP CUT

Washington Aides Prepare  
for a Joint Announcement  
at Meeting on Midway

### TIMING A MAJOR FACTOR

Officials Feel Statement on  
Sunday Would Demonstrate  
a Unanimity of Views

By HEDRICK SMITH

Special to The New York Times

WASHINGTON, June 3

United States officials said today that preparations were being made for a joint announcement at Midway by President Nixon and the South Vietnamese President, Nguyen Van Thieu, of the first unilateral reductions in American forces in Vietnam.

Informants said the announcement was considered likely but that final decision to go ahead with the cutback in American forces awaited agreement by the two men at their one-day meeting on the Pacific island Sunday.

Informants said several senior officials of the Nixon Administration believe the Midway meeting would afford a proper, positive occasion for such an announcement. Their reasoning is that a joint announcement would demonstrate solidarity on the troop issue and undercut in advance any speculation that either Washington or Saigon was trying to set a timetable for troop reductions.

### Thieu Gives His View

In a news conference at Taipei today, President Thieu indicated the agenda for the Midway talks would include "replacement of U.S. troops by South Vietnamese troops" paving the way for withdrawal of some of the 540,000 Americans in Vietnam.

Military and civilian sources said that the Administration was thinking of pulling out about 50,000 troops this year, starting about Sept. 1.

One possibility, Vietnam planners said, was to withdraw part of the United States Ninth Infantry Division, operating in the Mekong Delta south of Saigon, and part of one other combat division.

### Differences Are Denied

Some informants cautioned that the announcement of a withdrawal might include a provision that the rate of withdrawal would be affected by the response of enemy forces. If they launched large attacks against the South Vietnamese forces that replaced American troops, officials said, Saigon and Washington could decide to suspend withdrawals.

Both South Vietnamese and American officials continue to insist there are no basic differences between the two Governments as the Midway talks approach.

But privately, some American officials concede that the Administration is backing off from some of the statements on troop

inton's negotiating posture made by Secretary of State William P. Rogers when he visited Saigon in mid-May.

Mr. Rogers was reported to have indicated that the United States considered an interim coalition Government—as demanded by the Vietcong—special elections in Vietnam under international supervision, and amendments to the South Vietnamese Constitution as items open for negotiation in the Paris talks.

Although no one has disavowed these positions, some officials have suggested privately that Mr. Rogers may have overstepped in the interest of demonstrating American flexibility. But they also assert that Washington's acceptance of these ideas has always been clearly made contingent upon Saigon's concurrence.

Some high American officials are reported to be thinking of a mixed commission of Communist and anti-Communist elements to oversee elections in South Vietnam, but it is not clear whether Washington will put forward this plan at Midway.

The reasoning of some Americans is that this would strike a balance between the Vietcong demand for a provisional coalition to oversee the elections and Mr. Thieu's rejection of the coalition idea.

Independent diplomats have suggested that Mr. Thieu's rejection of a coalition, in public appearances in South Korea and Taiwan in the last week, was intended to quiet any private discussion of coalition schemes by United States officials.

Even before he spoke out, there was no American effort to persuade Mr. Thieu to accept a coalition. But since he has spoken out, American officials have been at pains to point this out and generally avoid discussion of the idea of coalition.

Officials also insist that President Nixon's Vietnam speech of May 14, outlining Washington's peace program, was checked out line by line with President Thieu. The South Vietnamese leader, officials say, gave the speech detailed approval after having suggested several changes in language.

The speech contained a proposal for international supervision of South Vietnamese elections, which would come "as soon as possible" after the commission is named. South Vietnamese politicians have objected to both procedures on the ground that these proposals

infringe on the South Vietnamese constitution and national sovereignty. But Washington is holding firm to both points and expects to explore them at Midway.

# President Heads Westward, Talk of Troop Cut Grows

By GEORGE SHERMAN  
Star Staff Writer

President Nixon left today on a transcontinental tour which will climax Sunday on Midway Island in a meeting with South Vietnamese President Nguyen Van Thieu.

The President has summoned his full military and civilian entourage to be with him to the summit — including the chairman of the Joint Chiefs of Staff, Gen. Earl Wheeler and the U.S. negotiator at the Paris peace talks, Henry Cabot Lodge.

The inclusion of Wheeler — traveling with Defense Secretary Melvin Laird — is feeding the belief in top circles here that Nixon and Thieu could announce a timetable for the first replacement of U.S. troops by South Vietnamese Army troops in the war. However, the conference was originally billed primarily as a session to hammer out joint

political strategy in the new phase of negotiations in Paris.

Officials close to Secretary of State William P. Rogers, who also will be on Midway together with White House national security adviser Henry A. Kissinger, refused to rule out the possibility that the first announcement of replacement of perhaps 50,000 American troops of the 540,000 in Vietnam will come from Midway on Sunday.

During Rogers' recent visit to Saigon, he discussed the plan with Thieu. The South Vietnamese president later said "significant units"—as many as 50,000 men — of the South Vietnamese Army would be ready by September to begin replacing American troops.

But Premier Tran Van Huong later told this correspondent in an interview in Saigon that the plan, now in its final stages of preparation, must await a final joint decision by Nixon and Thieu.

Others on hand at Midway will include Ellsworth Bunker, U.S. Ambassador to South Vietnam; Laird, Wheeler, Lodge, Kissinger, Gen. Creighton Abrams, U.S. commander in Vietnam, and Adm. John McCain, commander in chief of the Pacific.

Before leaving this morning

Nixon presided over a joint meeting of the Cabinet and National Security Council to hear Rogers report on his 18-day trip to Saigon, Bangkok, Teheran and other Asian capitals. Rogers is scheduled to give his second press conference since taking office later this week.

On his way to Midway, the President plans to make four stops and two major speeches.

## First Stop at Campus

Nixon's first major stop today was scheduled for General Beadle College at Madison, S.D., where the White House said he would talk about "the basic values of America currently under challenge."

Administration sources indicated Nixon would deal broadly with such matters as moral values and the rule of law, skirt-ing direct discussion of campus disorders.

At Air Force Academy commencement exercises tomorrow at Colorado Springs, Colo., the President will discuss "the role of a great nation in the world and the role of a military defense in our society." He is expected to talk about the fears of some Americans that the military establishment, and more particularly a military-industrial alliance, is wielding too much power.

After two days at his new San Clemente, Calif., home, Nixon will head across the Pacific for Sunday's meeting with Thieu on Midway.

Nixon's family is making the trip with him, with the exception of the hop to Midway. Mrs. Nixon with daughters Tricia and Julie Eisenhower will spend Sunday in Honolulu. They will return to Washington June 10.

Sen. and Mrs. Karl E. Mundt, R-S.D., also were invited to accompany the President on the first leg of today's trip—to South Dakota.

Nixon's meeting yesterday with Japanese Foreign Minister Kitchi Aichi appeared to be the first step toward a return of Okinawa to Japan.

The White House reported after the 30-minute conference that Nixon refused to promise that the Pacific island, site of a major U.S. Air Force base, would be returned to Japanese control by 1972, as Aichi requested.

But Press Secretary Ronald L. Ziegler said the President felt

the meeting was "constructive" and that he was hopeful of reaching a mutually satisfactory agreement on Okinawa before the scheduled visit to Washington in November of Japanese Prime Minister Eisaku Sato.

Sato is under heavy pressure to regain Okinawa, which the United States has retained since its capture late in World War II.

"In that connection Mr. Aichi stressed that we Japanese people have a unique feeling toward anything nuclear," a Japanese Embassy spokesman said.

U.S. officials have been seeking continued freedom of use of the military base facilities without restrictions — meaning that the military wants to be free to base nuclear weapons there if this seems necessary.

Under present treaty arrangements, the United States does not put nuclear weapons into its bases in the main islands of Japan, and the Japanese want similar veto power over their presence in Okinawa.

There were reports that Nixon has decided, however, to relinquish this once an agreement has been reached on details of returning Okinawa to Japan.

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the fundamental approach to major foreign policy issues such as the United States' strategic posture, Strategic Arms Limitation Talks (SALT), Vietnam and many other national security issues. Because of the sensitive nature of these matters, the secrecy of each was of vital importance and the success or failure of each program turned in many instances upon the maintenance of the necessary security. However, notwithstanding the critical need for such security during this period, we were confronted with leaks to the press of information of the greatest importance to the national security. These leaks included discussions of National Security Council deliberations, intelligence information, negotiating positions and specific military operations. In several cases, significant consequences resulted from these premature releases of internal policy deliberations. In addition, the release of such classified information had obvious benefit for potential enemies of this country. Of particular concern to the President were news leaks which occurred from early April until June of 1969, involving Vietnam policy, strategic arms and the Okinawa reversion.

4. With respect to Vietnam, where the President was determining his broad policy for dealing with the war, both as to negotiating positions and military strategy, news leaks regarding such plans appeared frequently in the press. For example, following a meeting of the National Security Council on March 28, 1969, the President directed that studies be conducted on several subjects associated with a settlement of the war in Vietnam, including a study of alternatives for a unilateral

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withdrawal. The study directive was issued on April 1, 1969, and within a week thereafter an article appeared in the New York Times on April 6, 1969, by Max Frankel revealing that the Government was considering unilateral withdrawal from Vietnam. Similarly, in May of 1969 it was decided that the United States could make an initial troop withdrawal from Vietnam, and shortly thereafter articles appeared by George Sherman in the June 3, 1969, edition of The Evening Star, and by Hedrick Smith in the June 4, 1969, New York Times, forecasting this decision and announcing that it would be made public following the President's meeting with South Vietnam's President Nguyen Van Thieu on Midway Island the following Sunday.

Each of the above disclosures was extremely damaging with respect to this Government's relationship and credibility with its allies. Although the initial troop withdrawal increment was small, the decision was extremely important in that it reflected a fundamental change in United States policy. For the South Vietnamese government to hear publicly of our apparent willingness to consider unilateral withdrawals, without first discussing such an approach with them, raised a serious question as to our reliability and credibility as an ally. Similarly, though in a reverse context, these disclosures likewise impaired our ability to carry on private discussions with the North Vietnamese, because of their concern that negotiations could not, in fact, be conducted in absolute secrecy.

Militarily, a decision was made in early March of 1969 to conduct a series of B-52 bombing raids on North Vietnamese sanctuaries just inside the border of Cambodia. Because of the sensitivity associated with Cambodian neutrality and the tacit support for such action by Cambodia's

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21. In early March, 1969, a decision was reached to conduct B-52 raids into Cambodia. These raids were conducted secretly to maintain the tacit approval of neutralist Cambodian Prince Norodom Sihanouk.

However, on May 6, 1969, William Beecher accurately reported these raids in the New York Times jeopardizing the relationship with Prince Sihanouk.

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## CAMBODIA RAIDS GO UNPROTESTED

By WILLIAM BEECHER

Special to The New York Times

WASHINGTON, May 8—American B-52 bombers in recent weeks have raided several Vietcong and North Vietnamese supply dumps and base camps in Cambodia for the first time, according to Nixon Administration sources, but Cambodia has not made any protest.

In fact, Cambodian authorities have increasingly been cooperating with American and South Vietnamese military men at the border, often giving them information on Vietcong and North Vietnamese movements into South Vietnam.

Information from knowledgeable sources indicated that three principal factors underlie the air strikes just inside the Cambodian border, west and northwest of Saigon:

### ¶Rising concern by military

men that most of the rockets and other heavy weapons and ammunition being used by North Vietnamese and Vietcong forces in the southern half of South Vietnam now come by sea to Cambodia and never have to run any sort of bombing gantlet before they enter South Vietnam.

¶A desire by high Washington officials to signal Hanoi that the Nixon Administration, while pressing for peace in Paris, is willing to take some military risks avoided by the previous Administration.

¶Apparent increasing worry on the part of Prince Norodom Sihanouk, Cambodia's Chief of State, that the North Vietnamese and Vietcong now effectively control several of Cambodia's northern provinces and that he lacks sufficient power to disrupt or dislodge them.

### No Desire to Extend War

Officials say that there is no Administration interest at this time in extending the ground war into Cambodia, or Laos either.

Some American ground commanders have long urged that battalion-size forces occasionally be allowed to sweep into sanctuaries in Laos and Cambodia to follow-up air strikes. This plea has been rejected by President Nixon as it was by President Johnson.

But sources here say that to assure that accurate information can be obtained to provide "lucrative" targets for the bombers, small teams of men are permitted to slip across both the Cambodian and Laotian borders to locate enemy concentrations of men and matériel.

The sources report, for instance, that to try to reduce losses in B-52 raids the enemy has dug in and dispersed supply caches in such a way that it is unlikely that all supplies in any one area would be hit by the linear pattern of bombs dropped by a B-52. Each plane, which normally carries about 30 tons of bombs, lays out a pattern that is 1,000 feet wide and 4 miles long.

#### Coincided With Other Raids

The raids into Cambodia, the sources say, coincided with heavy B-52 raids on the Vietnamese side of the border 50 to 75 miles northwest of Saigon.

Over the last two weeks more than 5,000 tons of bombs have been dropped by B-52's in this area, according to one estimate.

There are reported to be three enemy divisions operating back and forth across the border in this area: the First and Seventh North Vietnamese Divisions and the Ninth Vietcong Division. Another division, the Fifth Vietcong, is now operating south and southeast of Saigon.

The decision to demonstrate to Hanoi that the Nixon Administration is different and "tougher" than the previous Administration was reached in January, well-placed sources say, as part of a strategy for ending the war.

Limited, selective bombing strikes into Cambodia, the sources say, were considered feasible because Prince Sihanouk had dropped hints that he would not oppose such actions and because American military men had long clamored for some action against enemy activities in this sanctuary. Moreover, the strikes seemed to offer relatively little risk of either expanding the war or disrupting the Paris peace talks.

In the past, American and South Vietnamese forces had occasionally fired across the border and even called in fighters or helicopter gunships to counter fire they received from enemy units there. But there had been no bombing of supply stockpiles or base camps in Cambodia, military men say.

#### 'Purposely Ambiguous'

The initiation of such strikes raises the question whether the new Administration, if peace talks drag on without significant progress, would turn to other military measures ruled out by President Johnson. "We're being purposely ambiguous on this," one official said.

Over the last several weeks the military sources say, Cambodian Army officers in border posts have held secret meetings with Americans and South Vietnamese to "coordinate" some actions against enemy forces.

The South Vietnamese have provided them with radios and in some instances the Cambodians have radioed information on enemy units moving into South Vietnam. At other times, the Cambodians have fired colored flares—for example, red to mark an enemy unit and blue to mark their own—so that allied forces would not fire at the wrong unit.

There have been a few recent clashes between Cambodian and Vietcong units in which the Cambodians have captured and disarmed some of the Vietcong before freeing them, the Pentagon sources say.

#### International Volleyball

As one indication of growing friendliness, one official cited a recent volleyball game near the border involving Cambodian, American and South Vietnamese soldiers.

"This cooperation is only starting to get off the ground," said one officer. "It's too early to tell how important this will turn out to be."

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withdrawal. The study directive was issued on April 1, 1969, and within a week thereafter an article appeared in the New York Times on April 6, 1969, by Max Frankel revealing that the Government was considering unilateral withdrawal from Vietnam. Similarly, in May of 1969 it was decided that the United States could make an initial troop withdrawal from Vietnam, and shortly thereafter articles appeared by George Sherman in the June 3, 1969, edition of The Evening Star, and by Hedrick Smith in the June 4, 1969, New York Times, forecasting this decision and announcing that it would be made public following the President's meeting with South Vietnam's President Nguyen Van Thieu on Midway Island the following Sunday.

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Militarily, a decision was made in early March of 1969 to conduct a series of B-52 bombing raids on North Vietnamese sanctuaries just inside the border of Cambodia. Because of the sensitivity associated with Cambodian neutrality and the tacit support for such action by Cambodia's

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Prince Norodom Sihanouk, it was extremely important for diplomatic reasons that these raids remain secret and stringent security precautions were taken to ensure that this military operation was not publicly disclosed. Yet notwithstanding all such efforts to maintain the security of this operation, an article appeared in the May 9, 1969, edition of the New York Times by William Beecher, attributed to Administration sources, accurately summarizing the conduct of these raids. While there were obvious adverse diplomatic repercussions from this disclosure, its greatest effect was to raise a serious question in the mind of the President as to the ability of the Government to maintain the necessary security required for this and other sensitive military and diplomatic operations, and whether in the future he could make critical foreign policy decisions on the basis of full and frank discussions.

5. Several other examples of critically sensitive press disclosures occurred during this period with regard to the development of our position on strategic arms in preparation for SALT negotiations with the Soviet Union.

First, on January 20, 1969, the President directed that an overall study be conducted of the United States' strategic force posture. A fundamental requirement of this study was to determine what programs should be adopted to ensure the credibility of this country's deterrent capability. The study was conducted and included an analysis of five options to support strategies ranging from emphasis on offensive capabilities at one end, to heavy reliance on anti-ballistic missile systems at the other. Cost estimates for each of the alternative force postures were included. Notwithstanding the obvious need for strict security in the preparation and handling of this report, an article by William Beecher appeared in the

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22. In the May 1, 1969, New York Times, William Beecher reported the five strategic options under study for the SALT negotiations with close estimates of the costs for each option. These options were published before they were considered by the National Security Council

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22a Article by William Beecher, "Administration Gets Study of Global Nuclear Strategy", <u>New York Times</u> , May 1, 1969, p. 1, col. 1.....	168
22b Henry A. Kissinger affidavit, ( <u>In Camera</u> ), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 4-6:.....	170

# Administration Ends Study Of Global Nuclear Strategy

*National Security Council Will Take Up  
Comprehensive Analysis of Options,  
Including a Sweeping Modification*

By WILLIAM BEECHER  
Special to The New York Times

WASHINGTON, April 30 —The first half of a comprehensive review of the nation's security policies, setting forth options for sweeping codifications in United States global strategy, is scheduled to go to the National Security Council tomorrow.

The report, with contributions from the Pentagon, the State Department, the Central Intelligence Agency, the Treasury Department and the Budget Bureau, was described by an Administration official as "the most comprehensive review of national security policy since the end of World War II."

The first half, dealing with strategic policies and nuclear forces, contains five force options ranging in cost from \$6-billion to \$16-billion a year

for the next 10 years. Current strategic forces cost about \$10-billion a year.

At one end of the option range is a policy stressing a large-scale build-up of offensive forces to outdistance the Soviet Union and remain in position to launch a surprise attack at any time. At the other end is a policy of unilaterally holding back on offensive forces and stressing a large build-up of defensive forces to limit damage, substantially if the Russians should attack first.

The second half of the review, due to reach the National Security Council by July 1, will consider a wide choice of political strategies, ranging from

"fortress America" to "world policeman," officials say. It will discuss the sizes of the non-nuclear forces necessary to carry out each after the Vietnam war is over.

Officials pointed out that the two parts of the report were interdependent but that the Nixon Administration wanted to decide first on nuclear strategy before it moved on to the conventional forces necessary to contend with nonnuclear crises. "The nuclear tail wags the nonnuclear dog," one official said.

The review was conceived at the start of the new Administration, before the emergence of a drive in Congress to slash defense expenditures. Officials insist that no really substantial military cuts would be prudent until basic decisions are made on whether some worldwide commitments are to be curtailed.

The purpose of the study, being conducted under chairmanship of David Packard, Deputy Secretary of Defense, is to lay the groundwork for developing meaningful alternative policies for the next 10 years.

The portion of the report dealing with strategic forces had been scheduled for completion by July 1, but the timetable was accelerated to May 1 to enable the Administration to determine policy before the forthcoming arms limitation talks with the Soviet Union. Those talks are expected to get under way this summer.

The existing mix of strategic bombers, missiles and submarines is designed to enable the United States to deter nuclear war by threatening overwhelming retaliation.

The current force of 1,000 Minuteman, 54 Titau-2 and 656 Polaris missiles, with the 549 strategic bombers, is designed to enable enough of the force to survive a first strike and to counter by killing tens of millions of the foe.

#### Penetrating Any Defense

It also contemplates adding multiple warheads to advanced Minuteman-3 and Poseidon missiles to penetrate any missile defense if the arms-limitation talks fail to freeze Soviet defenses.

Finally, present policy projects a thin missile defense, now called Safeguard, to protect part of the Minuteman force from a first strike, to guard against attack from Communist China when it has long-range missiles and to counter an unauthorized or accidental missile launch.

In addition to the ability to deter nuclear war, the current force has the capability of fighting a limited nuclear war in which each sides aimed only at weapon sites, not cities.

#### The Other Options

A continuation of essentially the same posture is one of the five options in the new study; the others contain these elements.

CA massive build-up of intercontinental ballistic missiles, including a much-longer-range missile carried by a new nuclear-powered submarine. This force would be aimed at re-establishing the situation in which the United States, though quite unlikely to initiate nuclear war, would have a "credible" ability to launch so widespread and accurate a first strike as to virtually disarm the foe.

Completion of the full Safeguard missile-defense system with the addition of defensive coverage of Alaska and Hawaii; a modest increase in ICBM's with multiple warheads and acceleration of plans to build a new long-range bomber with better air-to-ground missiles.

CA unilateral freeze of present strategic offensive forces, no deployment of the so-called multiple independently targetable re-entry vehicles (MIRV's) on Minuteman-3 and Poseidon missiles, and a curtailment of the Safeguard missile defense to protect only two Minuteman sites and a defense of the country at large against Chinese missiles that is thinner than that presently contemplated.

CA No MIRV's or additional ICBM's, but a substantial build-up of defensive missiles around 25 to 52 American cities in an attempt to decrease fatalities markedly should deterrence fail and nuclear war break out.

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Prince Norodom Sihanouk, it was extremely important for diplomatic reasons that these raids remain secret and stringent security precautions were taken to ensure that this military operation was not publicly disclosed. Yet notwithstanding all such efforts to maintain the security of this operation, an article appeared in the May 9, 1969, edition of the New York Times by William Beecher, attributed to Administration sources, accurately summarizing the conduct of these raids. While there were obvious adverse diplomatic repercussions from this disclosure, its greatest effect was to raise a serious question in the mind of the President as to the ability of the Government to maintain the necessary security required for this and other sensitive military and diplomatic operations, and whether in the future he could make critical foreign policy decisions on the basis of full and frank discussions.

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New York Times on May 1, 1969 -- prior to consideration of the report by the National Security Council -- setting forth an accurate description of the options as well as a close estimate of the range of costs involved.

In addition to the above study, the United States Intelligence Board (USIB), composed of representatives of the intelligence community, had been engaged for several months in an analysis of the Soviet Union's testing of missiles, and in early June of 1969 concluded their review and issued a report, which was extremely closely held, setting forth their estimate of the Soviet Union's strategic strength and possible first strike capability. Because the USIB's assessment varied in its degrees of certainty from earlier statements and reports made by other defense experts in support of the need for the Safeguard ABM System, any public disclosure of the USIB report would provide a useful signal to the Soviet Union as to the disagreement within our Government and the efficacy of our intelligence system. It would also prematurely reveal the intelligence basis on which we were developing our position for the impending strategic arms talks. On June 18, 1969, the fact of the interagency disagreement and opposing agency positions were printed in a New York Times article by Peter Grose.

Each of these disclosures was of the most extreme gravity. As presentations of the government's thinking on these key issues, they provided the Soviet Union with extensive insight as to our approach to the SALT negotiations and severely compromised our assessments of the Soviet Union's missile testing and our apparent inability to accurately assess their exact capabilities. Perhaps more important, evidence of leaks of such closely held intelligence assessments raised serious questions

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as to the integrity of the USIB and created severe doubts about our ability to maintain security in deliberations on national security policy.

6. Also of serious concern during this period was a press leak involving this country's policy toward Japan and our strategy for negotiations on the reversion of Okinawa. Following a late April meeting of the National Security Council, a National Security Decision Memorandum was issued on May 28, 1969, outlining this country's policy toward Japan, and particularly our negotiating strategy with respect to the reversion of Okinawa. This memorandum set forth our desire to retain nuclear weapons on Okinawa but stated, as a fallback position, that we would be prepared to consider the withdrawal of these weapons while retaining the storage and transit rights. Shortly after this memorandum was completed, and prior to the negotiations with the Japanese, an article by Hedrick Smith appeared in the New York Times on June 3, 1969, stating that the President had decided to remove nuclear weapons from Okinawa once an overall plan to return the Island had been agreed upon. The article noted that the President's decision had not yet been communicated formally to the Japanese Government. The consequences of this disclosure, attributed to well-placed informants, in terms of compromising negotiating tactics, prejudicing the Government's interest, and complicating our relations with Japan were obvious, and clearly preempted any opportunity we might have had for obtaining a more favorable outcome during our negotiations with the Japanese.

7. In early May, 1969, after the first several unauthorized disclosures of classified information had occurred, the President consulted the then Director of the Federal Bureau of Investigation, J. Edgar Hoover, and the then Attorney General of the United States, John N. Mitchell, concerning methods to be employed to deal with the problem. The President was told

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23.. On June 18, 1969 in the New York Times, Peter Grose reported on the secret official estimates for the first strike capabilities of the Soviet Union. This was published during the SALT negotiations thereby prematurely revealing the intelligence basis upon which the United States was developing its SALT position.

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23a Article by Peter Grose, "U.S. Intelligence Doubts Soviet First-Strike Goal", <u>New York Times</u> , June 18, 1969, p. 1, col. 2.....	174
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## U.S. Intelligence Doubts Soviet First-Strike Goal

By PETER GROSE

Special to The New York Times

WASHINGTON, June 17 — The United States intelligence community has reportedly concluded that the Soviet Union is not now striving for the capability to launch a first-strike nuclear attack against this country but is probably seeking more than parity with the United States in missile strength.

At meetings last week of the United States Intelligence Board, which is presided over by the Director of Central Intelligence, Richard Helms, the various civilian and service intelligence agencies are understood to have reached a consensus estimate of Soviet strategic strength for the next two or three years.

Sent to the White House as the official judgment of the intelligence community, the detailed and secret survey seems

bound to become embroiled in the current controversy over the opening of strategic arms talks with the Russians and the proposed deployment of an antiballistic-missile system.

The White House announced today that the National Security Council would meet tomorrow on arms policies. President Nixon is expected to disclose at a televised news conference at 7 o'clock Thursday night when and where the Administration proposes to open the new round of disarmament talks.

Meanwhile, in a related development, 39 Senators—only 12 short of a majority—joined together as co-sponsors of a resolution urging the President to seek agreement with the Soviet Union to halt testing of

Continued on Page 10, Column 1



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## U.S. BOARD ASSAYS SOVIET INTENTION

Continued From Page 1, Col. 3

multiple-warhead missiles.

The signers included the Senate Democratic leader, Mike Mansfield of Montana, and the Democratic whip, Edward M. Kennedy of Massachusetts. Senator Edward W. Brooke, Republican of Massachusetts, was the chief author of the resolution, which was endorsed by a total of 27 Democrats and 12 Republicans.

Critics of the Administration are fearful that Defense Secretary Melvin R. Laird and Pentagon strategists have drowned out Secretary of State William P. Rogers and other potential restraining voices — including the Central Intelligence Agency — in pushing for a stern negotiation position and for costly defense programs by, in the critics' view, exaggerating Soviet nuclear capabilities.

Among Congressional opponents of the Sageguard antiballistic missile system, there is particular resentment at what they see as the Pentagon's highly selective, if not actually distorted, use of raw intelligence data to promote the pro-ABM position. The same resentment has been voiced privately by intelligence officials themselves.

It is in this context that the high-level consensus estimate of the entire intelligence community assumes special significance.

The United States Intelligence Board is a high-level coordinating group that meets weekly to correlate all the data available across the Government. Sitting on the board under Mr. Helms's chairmanship are representatives of the C.I.A.; the Pentagon's Defense Intelligence Agency; the intelligence branches of the Army, Navy and Air Force; the State Department; the Atomic Energy Commission and the National Security Agency.

These agencies agreed last week that the Russians appear to be moving rapidly, more so than expected several years ago, to strengthen their nuclear forces as a deterrent and are probably striving for more than equality of missile strength with the United States.

### Desire and Intention

But in the board's judgment, this drive falls short of an effort to achieve a "first-strike capability" — the capability to destroy enough United States missiles in a first strike to prevent this country from launching an effective retaliatory blow.

The "desire" ultimately to acquire such a capability may be present in some Soviet policy-making circles, the board concluded, but both the capability and the specific intention to achieve it were ruled out for the foreseeable future.

This conclusion was reportedly stated in the formal "national intelligence estimate" without any dissenting footnotes from any of the participating agencies.

Pentagon strategists have repeatedly cited the threat of a Soviet massive capability to justify the need for the Sageguard ABM system.

### Not a Direct Contradiction

The Intelligence community's estimate minimized this threat, though it is not in direct contradiction with the official Pentagon view. Mr. Laird's statements raised the possibility of a Soviet first-strike capability by the mid-1970's, a time beyond the two or three years covered in the intelligence community's estimate.

Preliminary assessments prepared by the C.I.A. and made available to Congressional committees were understood to

have come down far harder in rebutting Mr. Laird's arguments about Soviet capabilities.

According to reliable sources, Mr. Helms, aware of the political controversy surrounding the estimates, softened some of the language of the final survey — without affecting the basic conclusions — to avert an unnecessary confrontation between the C.I.A. and the Pentagon.

The bureaucratic ordeal of achieving a consensus position among various Government agencies has stirred Congressional interest in the reliability of top-level intelligence and the means by which raw data are analyzed.

In policy controversies, particularly on strategic issues, questions of individual agency tentative or preliminary assessments are portrayed as the most authoritative intelligence as they are passed around among participants in the debate.

The purpose of the United States Intelligence Board is to provide a high-level forum for the entire intelligence community to meet and try to achieve a nonpartisan consensus for the President.

Mr. Helms acts as the spokesman for the community and the C.I.A. in policy-making councils. Pentagon and State Department intelligence assessments can also be called to the President's attention independently by Mr. Laird, by the chairman of the Joint Chiefs of Staff, Gen. Earle G. Wheeler, and by Mr. Rogers.

### House Votes Payroll Bill

WASHINGTON, June 17 (AP) — The House sent to the Senate by voice vote today an emergency resolution approving funds for June payrolls for agencies whose pay money is tied up in another bill. Most of the payrolls are not due until June 30, but postal field workers have a paycheck due this Thursday.

GIVE A KID A CAMP  
VIA FRESH AIR FUNDS.

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Prince Norodom Sihanouk, it was extremely important for diplomatic reasons that these raids remain secret and stringent security precautions were taken to ensure that this military operation was not publicly disclosed. Yet notwithstanding all such efforts to maintain the security of this operation, an article appeared in the May 9, 1969, edition of the New York Times by William Beecher, attributed to Administration sources, accurately summarizing the conduct of these raids. While there were obvious adverse diplomatic repercussions from this disclosure, its greatest effect was to raise a serious question in the mind of the President as to the ability of the Government to maintain the necessary security required for this and other sensitive military and diplomatic operations, and whether in the future he could make critical foreign policy decisions on the basis of full and frank discussions.

5. Several other examples of critically sensitive press disclosures occurred during this period with regard to the development of our position on strategic arms in preparation for SALT negotiations with the Soviet Union.

First, on January 20, 1969, the President directed that an overall study be conducted of the United States' strategic force posture. A fundamental requirement of this study was to determine what programs should be adopted to ensure the credibility of this country's deterrent capability. The study was conducted and included an analysis of five options to support strategies ranging from emphasis on offensive capabilities at one end, to heavy reliance on anti-ballistic missile systems at the other. Cost estimates for each of the alternative force postures were included. Notwithstanding the obvious need for strict security in the preparation and handling of this report, an article by William Beecher appeared in the

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New York Times on May 1, 1969 -- prior to consideration of the report by the National Security Council -- setting forth an accurate description of the options as well as a close estimate of the range of costs involved.

In addition to the above study, the United States Intelligence Board (USIB), composed of representatives of the intelligence community, had been engaged for several months in an analysis of the Soviet Union's testing of missiles, and in early June of 1969 concluded their review and issued a report, which was extremely closely held, setting forth their estimate of the Soviet Union's strategic strength and possible first strike capability. Because the USIB's assessment varied in its degrees of certainty from earlier statements and reports made by other defense experts in support of the need for the Safeguard ABM System, any public disclosure of the USIB report would provide a useful signal to the Soviet Union as to the disagreement within our Government and the efficacy of our intelligence system. It would also prematurely reveal the intelligence basis on which we were developing our position for the impending strategic arms talks. On June 18, 1969, the fact of the interagency disagreement and opposing agency positions were printed in a New York Times article by Peter Grose.

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7. In early May, 1969, after the first several unauthorized disclosures of classified information had occurred, the President consulted the then Director of the Federal Bureau of Investigation, J. Edgar Hoover, and the then Attorney General of the United States, John N. Mitchell, concerning methods to be employed to deal with the problem. The President was told

24. Hedrick Smith, in the June 3, 1969, edition of the New York Times, reported that the President had determined to remove nuclear weapons from Okinawa in the upcoming negotiations with Japan over the reversion of the Island. The article stated that the President's decision had not yet been communicated to Japan, thereby preempting the possibility of obtaining a more favorable outcome during the negotiations.

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24a Article by Hedrick Smith, "U.S. Said To Plan An Okinawa Deal Barring A-Bombs", <u>New York Times</u> , June 3, 1969, p. 1, col. 5.....	180
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June 3, 1969

## U.S. SAID TO PLAN AN OKINAWA DEAL BARRING A-BOMBS

Nixon Decision Reported—  
Timing Hinges on Terms for  
Isle's Return to Japan

By HEDRICK SMITH  
Special to The New York Times

WASHINGTON, June 2—President Nixon has made a decision to remove American nuclear weapons from Okinawa once an over-all plan for turning the island back to Japanese rule has been agreed upon, well-placed informants disclosed today.

The actual timing of the removal of the weapons to other sites in the Pacific area will depend on the terms of the reversion agreement, the sources indicated. Japan wants the weapons removed and the island returned, with the rest of the Ryukyu chain, by 1972.

Mr. Nixon's decision, reportedly taken after a National Security Council meeting in late April on the Okinawan question and related issues, is an important one. It is understood to reflect the judgment of the President's civilian advisers that maintenance of sound, long-term relations with Japan is more important than the military advantage of retaining complete freedom of operation on Okinawa.

### Negotiations to Continue

Informed sources said Mr. Nixon's decision had not yet been communicated formally to the Japanese Government. But presumably it will be made known in the course of negotiations with Tokyo on the Okinawa issue this summer and fall.

The Japanese Foreign Minister, Kiichi Aichi, met with President Nixon for 40 minutes this morning at the White House to present his Government's request that the Ryukyu Islands be returned to Japanese rule by 1972.

The Ryukyus were captured by American forces in a bloody battle in the late stages of World War II. The peace treaty provided for United States administration of the islands, but Washington has acknowledged that Japan retained nominal sovereignty over them and gave a pledge that the islands would eventually revert to Japanese rule.

### A Defense 'Keystone'

In the intervening years, the United States has built a multi-billion-dollar complex of bases that Defense Department officials describe as the "keystone" of the American defense network in the Pacific.

After years of hearing American commitments in principle to return the islands to Japan, Japanese public opinion has become insistent on obtaining a specific timetable from Washington. The status of the American bases and terms governing their operation after reversion have become the central problem in relations between Tokyo and Washington.

Mr. Aichi's call on President Nixon this morning marked the formal beginning of negotiations between the two Governments on the issue, though there have been months of preliminary discussions at lower levels. The negotiations are expected to culminate in November with a visit to Washington by Japan's Premier, Eisaku Sato.

Mr. Aichi told the President today that Japan would like American bases in Okinawa to function after reversion on the same basis as United States installations in Japan proper.

Under present conditions, with the Ryukyus governed by a United States administration headed by a military High Commissioner, the United States has complete freedom to move nuclear weapons too and from the islands and store them there. It can also mount offensive operations against other parts of Asia, such as B-52 bombing raids against Vietnam.

Nuclear weapons are barred from United States bases in Japan proper, and under terms of the two countries' security treaty, the United States must obtain Japan's approval in "prior consultations" before using her bases in Japan for combat operations in other Asian areas.

American and Japanese sources reported that President Nixon was noncommittal on the particulars of the Okinawa problems in his meeting with Mr. Aichi today. The Foreign Minister will enter into more

detailed talks in the next few days with Secretary of State William P. Rogers and Secretary of Defense Melvin R. Laird.

Today, the Foreign Minister underscored his country's sensitivity on the question of nuclear weapons on the soil of Japan, the only nation to have been subjected to nuclear attack.

Mr. Aichi stressed that was Japanese people have unique feelings toward anything nuclear," A Japanese Embassy spokesman said. "He stressed that, in considering the Okinawa question, President Nixon should also consider the importance of the stability of Japanese politics and future cooperation between Japan and the United States."

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as to the integrity of the USIB and created severe doubts about our ability to maintain security in deliberations on national security policy.

6. Also of serious concern during this period was a press leak involving this country's policy toward Japan and our strategy for negotiations on the reversion of Okinawa. Following a late April meeting of the National Security Council, a National Security Decision Memorandum was issued on May 28, 1969, outlining this country's policy toward Japan, and particularly our negotiating strategy with respect to the reversion of Okinawa. This memorandum set forth our desire to retain nuclear weapons on Okinawa but stated, as a fallback position, that we would be prepared to consider the withdrawal of these weapons while retaining the storage and transit rights. Shortly after this memorandum was completed, and prior to the negotiations with the Japanese, an article by Hedrick Smith appeared in the New York Times on June 3, 1969, stating that the President had decided to remove nuclear weapons from Okinawa once an overall plan to return the Island had been agreed upon. The article noted that the President's decision had not yet been communicated formally to the Japanese Government. The consequences of this disclosure, attributed to well-placed informants, in terms of compromising negotiating tactics, prejudicing the Government's interest, and complicating our relations with Japan were obvious, and clearly preempted any opportunity we might have had for obtaining a more favorable outcome during our negotiations with the Japanese.

7. In early May, 1969, after the first several unauthorized disclosures of classified information had occurred, the President consulted the then Director of the Federal Bureau of Investigation, J. Edgar Hoover, and the then Attorney General of the United States, John N. Mitchell, concerning methods to be employed to deal with the problem. The President was told



25. Morton Halperin was chief of the National Security Council planning group and therefore was one of several persons having access to the information which leaked. In this position and during his tenure as consultant to the NSC, Dr. Halperin received extensive exposure to classified information much of which remains confidential to this day. Dr. Halperin was removed from access to sensitive material regarding national security matters following publication of one of the Beecher articles in the New York Times.

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25b Henry A. Kissinger affidavit, ( <u>In Camera</u> ), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-72, signed November 26, 1973, pp. 7-9.....	188

25a. MORTON HALPERIN AFFIDAVIT, NOVEMBER 12, 1973,  
HALPERIN v. KISSINGER

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Nov 30,

MORTON H. HALPERIN, et. al.,	:	
	:	
Plaintiffs,	:	
	:	
-v-	:	Civil Action No. 1187-73
	:	
HENRY A. KISSINGER, et. al.,	:	
	:	
Defendants,	:	
	:	

AFFIDAVIT

City of New York )  
                              ) ss:  
State of New York)

MORTON H. HALPERIN, being duly sworn, deposes and says:

1. On May 9, 1969, in Key Biscayne, Florida, defendant Henry A. Kissinger informed me that I was suspected of leaking a story by Mr. William A. Beecher which had appeared in the New York Times several days before. The story reported that the United States had begun bombing Cambodia and provided some details of the bombing operation. Kissinger asked me whether I had provided any information to Beecher. I assured him that I had not. I pointed out that I could not have been the source of most of the information in the article since I had not had access to the information and did not know whether the story was accurate or not. Kissinger was well aware of this since everything I knew about the bombing, essential only the single fact that the United States had bombed Cambodia, I had learned in conversation with Kissinger. I had not had and never had access to any documents related to the bombing.

2. Kissinger indicated that he accepted my assurances

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but that others would not. He noted that as he had informed me previously, a number of high level figures in the Nixon Administration were suspicious of my political views and considered me disloyal to the administration. He informed me that for a period of time he would not give me access to any of the more sensitive information regarding national security matters. That way, he stated, if any information leaked I could not be blamed.

3. This period lasted until I resigned from the staff of the National Security Council in September of 1969. After May 9, 1969 I was given no access to sensitive material including information relating to private Vietnam negotiations, negotiations with the People's Republic of China, White House negotiations with the Soviet Union, and plans for troop withdrawals from Vietnam. Kissinger and defendant Alexander Haig were fully aware of this since they personally controlled access to such information.\*/ From May 9, 1969 on, my access was limited to information available to hundreds of others in the White House and the department of the Executive Branch. A number of other officials had access to the information about the bombing of Cambodia and, at least according to press reports, were not tapped. On the National Security Council staff, these

\*/ On one such matter--private Vietnam negotiations--Haig has so testified under oath at the so-called Pentagon Papers trial. He testified: "I would say from the period January '69 until his departure from the staff in August of '69 Mr. Halperin had regular access to the regular reporting traffic on the conduct of the formal negotiations within the Paris framework which had been established for some period and which was reconvened that year. He would have had full access to those as a member of the staff involved in Southeast Asian and other affairs. He would not have had access to the more sensitive, third-party contacts which may have occurred during that period." (Transcript, p. 20,925.)

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included Henry A. Kissinger, Alexander Haig, and Lawrence Eagleburger. Other officials, unknown to me, in the Departments of State and Defense also had access to this information. Information leaked to the press on other subjects was also available to a number of officials.

4. On August 6, 1969, I informed Kissinger of my desire to leave the National Security Council staff as soon as possible. At his request, my departure was delayed until September 19, 1969. Also at his request I agreed to become a consultant to him.

5. On September 19, 1969 I left the NSC staff and was notified that I had been appointed a consultant effective September 21, 1969.

6. On May 4, 1970, I sent Kissinger a letter resigning as a consultant. On May 13, I received a letter from Kissinger "confirm[ing] that you will no longer be carried on the rolls of the National Security Council staff for possible future consultation."

7. During the period September 20, 1969 to May 13, 1970, I had no access to any classified information. This was well known to Kissinger and Haig since only they would have given me access. (See also Haig testimony quoted above.)

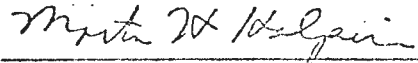
8. During this period, I was employed by the National Security Council for only one day. On that day I wrote, at Kissinger's request, a memorandum on Vietnam. I had no access to classified information in the course of writing that paper.

9. After leaving the staff of the National Security Council in the period of September 1967 to February 1971, I engaged in a number of activities reflecting my political beliefs.

25a. MORTON HALPERIN AFFIDAVIT, NOVEMBER 12, 1973,  
HALPERIN v. KISSINGER

-4-

I wrote articles for newspapers. I consulted with Senators, Congressmen, and their staffs on what positions they might take on public issues including Vietnam. In particular, I consulted with a number of people advising Senator Edmund Muskie in connection with his possible candidacy for President of the United States. At the time of the American invasion of Cambodia in the Spring of 1970, I consulted with a number of American citizens about various potential forms of citizen activity to protest American policy. Discussions related to all of these activities took place on my home telephone.



Morton H. Halperin

Subscribed and sworn to

This 12<sup>th</sup> day of November, 1973



Notary Public

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by Mr. Hoover that the most effective method was that which had been followed in previous Administrations, namely the conduct of electronic surveillance in accordance with specific procedures. The President was assured by Attorney General Mitchell that such action would be in compliance with law.

My office was required by the President to submit the names of those officials who had had access to the information which had been leaked. Obviously, my office was a natural place for this information to exist; and Dr. Halperin, in his position as Chief of the National Security Council Planning Group, was unquestionably one of several persons who had had access to such information.

8. As a result of this position, which he held until September 20, 1969, and as a consultant to the National Security Council until May 13, 1970, Dr. Halperin received extensive exposure to classified information, much of which remains confidential to this day.

Dr. Halperin was involved in the organization, substantive preparation and processing of National Security Council policy reviews, and his assignments gave him access to fundamental policy issues during the formative and crucial early months of 1969. During the period from January until May 1969, Dr. Halperin regularly participated, in conjunction with the responsible staff area specialists, in sensitive National Security Council studies. In addition, he also frequently attended National Security Council Review Group Meetings, which I chaired, and which considered a variety of subjects, including the United States strategic posture, strategic arms negotiations, Vietnam, the Middle East and United States trade policies, to name only a few. Dr. Halperin also participated in the preparation of papers for the President's use at meetings

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with the National Security Council covering a wide range of issues. While performing the above responsibilities, Dr. Halperin devoted particular attention to several speciality areas, including the United States' strategic posture, the SALT negotiations and the war in Vietnam. To maintain his currency in each of these areas, Dr. Halperin regularly received cables to and from our Embassies, including limited distribution cables on Vietnam and the Paris negotiations, as well as daily intelligence reports and sensitive intelligence publications.

9. Dr. Halperin's name and the names of other individuals were provided to the Federal Bureau of Investigation for their investigation. On May 13, 1969, I received a letter from Director Hoover indicating that on the basis of independent information available to him, it appeared probable that recent leaks had come "from a staff member such as Morton H. Halperin of the National Security Council." Director Hoover further stated specifically that "we should not ignore the possibility that Halperin . . . could be the source of a leak" and that he therefore had alerted the Bureau's most sensitive sources (i. e., electronic surveillance).

10. However, notwithstanding the investigation of Dr. Halperin and others being conducted by the Federal Bureau of Investigation, and additional governmental efforts to curb the unauthorized disclosure of classified information, press leaks involving Southeast Asia, SALT, the Middle East, NATO and other national security matters continued through 1969, 1970 and 1971. Such disclosures necessitated issuing a memorandum on May 23, 1970, to several government agencies regarding the SALT negotiations, in which I stated that:

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Vital national interests are being jeopardized by leaks to the press concerning the strategic arms limitation talks. No one in the Government is authorized to divulge the United States or Soviet positions to the press or to speculate concerning United States' intentions with respect to the negotiations.

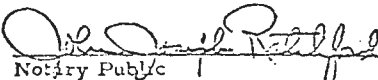
The President has directed that immediate steps be taken to ensure that standing directives concerning leaks are adhered to without exception by personnel under your jurisdiction. Prompt and severe disciplinary action is to be taken in the event of violations.

Throughout this period, leaks of information which could have serious adverse effects upon our national security and our relations with our allies continued.

11. From the commencement of the electronic surveillance of Dr. Halperin in May of 1969 until May, 1970, I was provided periodic summaries of the information gained from this surveillance of his conversations which the Federal Bureau of Investigation determined to involve national security. However, in late May of 1970, it was decided that such reports would be directed to the office of Mr. H. R. Haldeman, then an Assistant to the President, and that Mr. Haldeman would advise the President, General Haig, then an assistant on my staff, or myself, of information that required our attention. In addition, an informal liaison was maintained between Mr. Sullivan of the Federal Bureau of Investigation and General Haig of my staff, and if the surveillance of Dr. Halperin developed information of sufficient gravity, Mr. Sullivan would call General Haig and either inform him of that fact or call his attention to the fact that a report containing that information had been sent to Mr. Haldeman. I remember only one such event, but there may have been others.

  
HENRY A. KISSINGER

Subscribed and sworn to before me this 26<sup>th</sup> day of November, 1973.

  
Notary Public

My Commission expires May 31, 1978



*NOTE: THERE WAS NO PARAGRAPH 26 IN  
THE NOTEBOOK PRESENTED TO THE  
COMMITTEE ON THE JUDICIARY.*



27. A letter dated September 12, 1973 from Attorney General Elliot Richardson to the Senate Foreign Relations Committee referring to the placement of these seventeen national security wiretaps stated that "the Department of Justice scrupulously observes the law as interpreted by the courts."

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27a Henry Kissinger testimony, Senate Foreign Relations Committee, September 7, 1973, pp. 55-56. Letter from Elliot Richardson to Hon. J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, dated September 12, 1973,.....	194

**27a. HENRY KISSINGER TESTIMONY, SEPTEMBER 7, 1973,  
SENATE FOREIGN RELATIONS COMMITTEE, KISSINGER  
NOMINATION HEARINGS, 55-56**

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for Secretary of State, you would feel it incumbent and important to undertake to clarify overall policy because it bears upon the climate that we can generate between your Office and this committee and the Congress.

Mr. KISSINGER. Let me see whether I can elicit a statement which we could either submit for the record or give in some other form that would satisfy your question.

[The information referred to follows:]

OFFICE OF THE ATTORNEY GENERAL,  
Washington, D.C., September 12, 1973.

Hon. J. W. FULBRIGHT,  
Chairman, Senate Foreign Relations Committee,  
Washington, D.C.

DEAR MR. CHAIRMAN: During the confirmation hearings of Dr. Kissinger, a question was raised as to this Administration's position concerning the power of the Executive to conduct electronic surveillance without warrant in the national security field. Dr. Kissinger said that he would try to elicit a statement for the record that would clarify our general policy on this matter.

I believe that there will continue to be situations which justify the conduct of electronic surveillance for the purposes of national security. This surveillance is carried out to meet the obligations of the President as both Commander-in-Chief and as the Nation's instrument for foreign affairs. I will continue to attempt to ensure that a genuine national security interest is, in fact, involved whenever we invoke this power and that we operate within the limits set by Congress and the courts.

The Department of Justice scrupulously observes the law as interpreted by the courts. There may be questions as to what certain decisions mean and whether surveillance, such as that discussed by the committee, has been affected by later court decision. These and other issues are before the courts now and we expect any ambiguities to be settled within the normal judicial process. The policy statement that follows therefore refers to procedures for any surveillance that may be carried out at present.

A year ago in the *Keith* case (407 U.S. 297), the Supreme Court ruled unanimously that the Government may not carry on electronic surveillance in domestic security operations, as opposed to foreign intelligence operations, without first obtaining a judicial warrant. The Court pointed out that it was condemning warrantless electronic surveillance carried out in domestic security cases directed at a "domestic organization (whether formally or informally constituted) composed of citizens of the United States and which has no significant connection with a foreign power, its agents or agencies." The *Keith* decision necessarily is Departmental policy and is being followed.

Although the *Keith* case did not address warrantless national security electronic surveillance, to date, the lower courts which have addressed this problem have agreed with the contention of this Department that a judicial warrant is not a necessary requirement for the Government's use of electronic surveillance to obtain foreign intelligence or foreign policy information necessary for the protection of national security. *E.g.*, *United States v. Clay*, 430 F. 2d 165 (5th Cir. 1970), reversed on other grounds, 403 U.S. 698 (1971); *United States v. Brown*, 317 F. Supp. 531 (E.D. La., 1970) affirmed, No. 72-2181 (5th Cir., Aug. 22, 1973); *United States v. Smith*, 321 F. Supp. 424 (C.D. Calif. 1971); *Zurebbon v. Mitchell*, 42 U.S. L. Week 2054 (1973). Pending a decision on this issue by the Supreme Court, I believe that we are justified in relying on the case law as it is being developed in the lower courts to conduct national security electronic surveillance, without warrant, in a limited number of cautiously and meticulously reviewed instances.

When Congress enacted legislation in 1968 requiring a judicial warrant for the use of electronic surveillance in investigations of violations of certain criminal laws, it made clear that it did not intend to add or subtract from whatever measure of constitutional power the President may have to use electronic surveillance in the national security field. However, as a guide, it set forth a number of purposes, divided between the domestic and foreign aspects of national security, that it understood to be proper for the exercise of Presidential power. The *Keith* decision subsequently held that this power could not, in the absence of a warrant, be exercised for the domestic security purposes mentioned by Con-

**27a. HENRY KISSINGER TESTIMONY, SEPTEMBER 7, 1973,  
SENATE FOREIGN RELATIONS COMMITTEE, KISSINGER  
NOMINATION HEARINGS, 55-56**

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gress. However, as a matter of policy, I shall keep in mind the contours of the President's power suggested by Congress in the 1968 law as it relates to foreign intelligence. In general, before I approve any new application for surveillance without a warrant, I must be convinced that it is necessary (1) to protect the nation against actual or potential attack or other hostile acts of a foreign power; (2) to obtain foreign intelligence information deemed essential to the security of the United States; or (3) to protect national security information against foreign intelligence activities. 18 U.S.C. 2511(3).

As the Supreme Court itself observed in *Keith*, it may well be difficult to distinguish between "domestic" and "foreign" unlawful activities directed against the United States where there are relationships in varying degrees between domestic groups or organizations and foreign powers, or their agents. All I can say is that, as the applications are presented to me, I will, together with my staff, try scrupulously to follow the guidance and instruction given to us by Congress and the courts, bearing in mind the importance of balancing individual privacy with the needs of national security.

In addition, there is ongoing in the Department a full-scale effort under my and Bill Buckelshaus' immediate supervision, to derive new standards and guidelines for use of electronic surveillance in both domestic criminal matters, as well as for national security purposes. It is our hope that we will be able to give these standards precise public articulation and thus foster better understanding of the scope and nature of our limited use of electronic surveillance. Also, as I mentioned the other day, the new FBI Oversight Subcommittee of the Senate Judiciary Committee will allow the Congress to be better informed about these activities.

With kindest regards,  
Sincerely,

ELLIOT L. RICHARDSON,  
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Senator MUSKIE. I think there was some reference you made earlier in our discussion that you might supply for the record; I would like to go over that later and see if you could supply it for the record.

I think my time is up, Dr. Kissinger, but there are other areas that I would like to touch upon. I am sure we are going to have the opportunity to do so, including some substantive areas in the field of arms control, for example.

The CHAIRMAN. Senator Humphrey.

Senator HUMPHREY. Thank you very much, Mr. Chairman.

I will have to go down and cast a vote and I wasn't quite sure I ought to leave before my turn came. So I think you are going to be spared. I think we have a relatively short time to cast this vote.

**COMMENDATION OF WITNESS**

Dr. Kissinger, first I want to commend you on not only your statement, sir, which is a brilliant statement of purpose and philosophy, but on your service to this country in the cause of international peace and understanding. I say that as one who has observed you for many years, both as a great professor and as a practitioner in the art of diplomacy.

Just a few direct questions.

**U.S. SUPPORT OF AFRICAN DEVELOPMENT BANK**

You mentioned your support of multinational and multilateral institutions, such as the Asian Development Bank and others. The administration has not seen fit to make an investment in the African Development Bank even though there has been a commitment. I be-



28. There was clear legal authority on the legality of warrantless national security wiretaps at the time the seventeen wiretaps were conducted.

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- 28a United States v. Clay, 430 F.2d 165 (5th Cir. 1970),  
reversed on other grounds, 403 U.S. 698 (1971).
- 28b United States v. Brown, 317 F. Supp. 531 (E.D. La.  
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NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE  
ENTIRE PARAGRAPH IS A CONCLUSION RATHER THAN A STATEMENT OF  
INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.





29. After the termination of these seventeen taps, the Supreme Court stated that the legality of foreign policy warrantless wire-tapping was an open question. Attorney General Richardson has indicated that under these circumstances, the Department of Justice can reasonably rely on decisions of lower courts in justifying these wiretaps. Under current legal standards, warrantless foreign policy wiretapping is legal.

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29a <u>United States v. United States District Court</u> , 407 U.S. 297 (1972).	
29b     Henry Kissinger testimony, Senate Foreign Relations Committee, September 7, 1973, pp. 55-56. Letter from Elliot Richardson to Hon. J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, dated September 12, 1973.....	200
29c <u>United States v. Butenko</u> , 494 F.2d 593 (3rd Cir. 1974).	

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NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE LAST SENTENCE IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.

29b. HENRY KISSINGER TESTIMONY, SEPTEMBER 7, 1973,  
SENATE FOREIGN RELATIONS COMMITTEE, KISSINGER  
NOMINATION HEARINGS, 55-56

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If a Secretary of State, you would feel it incumbent and important to undertake to clarify overall policy because it bears upon the climate that we can generate between your Office and this committee and the Congress.

Mr. Kissinger. Let me see whether I can elicit a statement which we could either submit for the record or give in some other form that would satisfy your question.

[The information referred to follows:]

OFFICE OF THE ATTORNEY GENERAL,  
Washington, D.C., September 12, 1973.

Hon. J. W. FULBRIGHT,  
Chairman, Senate Foreign Relations Committee,  
Washington, D.C.

DEAR MR. CHAIRMAN: During the confirmation hearings of Dr. Kissinger, a question was raised as to this Administration's position concerning the power of the Executive to conduct electronic surveillance without warrant in the national security field. Dr. Kissinger said that he would try to elicit a statement for the record that would clarify our general policy on this matter.

I believe that there will continue to be situations which justify the conduct of electronic surveillance for the purposes of national security. This surveillance is carried out to meet the obligations of the President as both Commander-in-Chief and as the Nation's instrument for foreign affairs. I will continue to attempt to ensure that a genuine national security interest is, in fact, involved whenever we invoke this power and that we operate within the limits set by Congress and the courts.

The Department of Justice scrupulously observes the law as interpreted by the courts. There may be questions as to what certain decisions mean and whether surveillance, such as that discussed by the committee, has been affected by later court decision. These and other issues are before the courts now and we expect any ambiguities to be settled within the normal judicial process. The policy statement that follows therefore refers to procedures for any surveillance that may be carried out at present.

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You mentioned your support of multinational and multilateral institutions, such as the Asian Development Bank and others. The administration has not seen fit to make an investment in the African Development Bank even though there has been a commitment. I be-



30. On May 31, 1974 the court-appointed panel of experts filed their final report on the 18 1/2-minute gap on the June 20, 1972 EOB tape. One of the bases supporting the panel's final conclusions is the assumption that the Uher 5000 recorder used by Rose Mary Woods was functioning normally when it produced the erasure and buzz on the June 20, 1972 EOB tape.

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30 a. <u>The EOB Tape of June 20, 1972, Report for a</u> <u>Technical Investigation, Conducted for the U.S.</u> <u>District Court for the District of Columbia by the</u> <u>Advisory Panel on White House Tapes, May 31,</u> <u>1974, p. 3.....</u>	204

recorder with associated foot pedal, marked Government Exhibits 60 and 60B. The Exhibit 60 Uher had been twice modified by the Secret Service before we received it, once to disable its recording function and again to restore this function. It was operating normally when we received it, but was noticeably more sensitive to interference on the power line than other Uher 5000 recorders that we used.

3. What We Assumed and How It Affected Our Task

The Panel made certain assumptions in undertaking its studies. One was that the equipment used in the White House and Executive Office Building was substantially as described to us. On the basis of this information, we considered only two types of recorders (Sony 800B and Uher 5000) in seeking an explanation of the buzz section of the Evidence Tape. We were informed also that only the two Uher's were candidates for the machine that produced the buzz section of the Evidence Tape. Our identification of Exhibit 60 as that machine rests on the correctness of this information.

We assumed, in the absence of data to the contrary, that the equipment was functioning more or less normally when the original recording was made and when a part of it was overwritten by buzz. Most of the equipment supplied to us performed normally when we began to use it and continued to perform normally throughout our tests. A notable exception was the Exhibit 60 Uher recorder, which suddenly failed after the Panel had used it for about 50 hours. Throughout the 50 hours the recorder gave no indication of abnormal operation. It responded normally to all operations of the keyboard and footpedal controls. Recordings made on the recorder before it failed showed no signs of erratic operation, such as arbitrary stopping and restarting of the recording or of the motion of the tape. The component that failed was a diode bridge-rectifier. We took it out, made measurements to analyze the failure, and found that one of the diodes had become short circuited. Then we sealed the rectifier

in an envelope, which we signed and gave to U. S. Marshals to keep with the Exhibit 60 Uher in the possession of the Court. We installed a replacement rectifier in the recorder, which thereafter operated normally in all respects, throughout all the remaining tests we performed.

Our initial tests led us to conclude that the erasure rather than the buzz was responsible for obliterating the original recording. As a result, we placed little emphasis on finding the exact source of the buzz, except to note that it resembled power line interference and that the Exhibit 60 Uher was especially sensitive to such interference.

Two additional assumptions were concerned with procedural matters. We interpreted the task set by the Court to mean that we should restrict our attention to scientific analyses of the tape and the equipment that was, or might have been, involved in the recording and re-recording operations. Thus, questions of who made the buzz, or when, or why, did not come within the scope of our investigation.

Also, we interpreted our role as scientific advisors in a situation of evident urgency to mean that we should report our conclusions to the Court as soon as the scientific evidence for those conclusions became definite. We did this in the brief Summary Report of January 15, 1974.

#### 4. How We Found Out What Happened

To determine how the buzz section of the Evidence Tape of June 20, 1972, was produced, we examined the tape and made careful measurements at many points on it, paying special attention to places where we heard clicks, gaps, or other significant changes in the buzz.

We then examined the recorders and other equipment that was supplied to us and made experimental recordings with them to check their various functions and characteristics. When our tests and measurements were completed, we compared the data obtained from the Evidence Tape with data obtained from our experimental recordings. We looked for similarities and differences, to help us identify the machine functions that could have produced each of the transient events on the Evidence Tape.





31. Stanford Research Institute, Dektor Counterintelligence and Security, Inc. and Home Services, Inc. believe that the Uher 5000 was malfunctioning at the time the erasure on the June 20, 1972 EOB tape was produced. They also disagree with the panel's conclusion that the erasure was produced exclusively by keyboard manipulation and not by internal machine malfunction.

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31a. SRI Report of May 31, 1974, p. 4-6.....	208
31b. Dektor Report of May 30, 1974.....	217
31c. Home Services, Inc. Report of May 24, 1974.....	218
31d. <u>In Re Grand Jury</u> , Misc. 47-73, Sealed Transcript of testimony of Mark Weiss, member of the panel of experts, January 15, 1974, 25-28.....	219



May 31, 1974

REVIEW OF A REPORT SUBMITTED TO  
THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA  
ENTITLED "THE TAPE OF JUNE 20, 1972"

SRI Project No. ISU-3191

Submitted to:

Mr. James D. St. Clair  
Special Counsel to the President  
The White House

Prepared by:

Michael H. L. Hecker  
Senior Research Engineer  
Sensory Sciences Research Center

Approved:



Karl D. Kryter, Director  
Sensory Sciences Research Center



Bonnar Cox, Executive Director  
Information Science and Engineering Division



Don R. Scheuch, Vice President and Chairman  
Research Operations

NOTE

In accordance with the terms of an agreement between Stanford Research Institute and the White House, it is understood that the White House will inform the Court of the existence of this document and will furnish the Court with copies of this document if such copies are requested.

I INTRODUCTION

This document is a review of a report entitled "The Tape of June 20, 1972," which was submitted to the United States District Court for the District of Columbia by its Advisory Panel on White House Tapes. The Panel's report describes a technical investigation that was conducted to determine the cause of an 18.5-minute erasure contained in the presidential tape of June 20, 1972.

Stanford Research Institute (SRI) was retained on January 22, 1974 by Mr. James D. St. Clair, Special Counsel to the President, to provide technical consultation for the White House. We were requested to interpret available scientific information relating to the tape of June 20, 1972. In addition to our role as consultants, we conducted some preliminary experimental work during the period January 31, 1974 to February 7, 1974. We sent our data on magnetic signatures to Mr. St. Clair on February 8, 1974, and submitted a summary report of our earlier work on February 28, 1974.

On February 18, 19, and 20, 1974 we met for the first time with the six experts of the Panel. We discussed our experiments and results, and were shown various data that the Panel had obtained from the Evidence Tape. As a result of this meeting, further experiments were conducted by the Panel and by SRI. It should be noted that at no time did SRI experiment with the Evidence Tape or with the Uher 5000 tape recorder designated Government Exhibit 60. There were several subsequent meetings with individual members of the Panel during which new data were exchanged and discussed. In the course of our association with the Panel, we have made many contributions to its work.

On May 4, 1974 we received the draft of May 3, 1974 of the Panel's report and were asked by Mr. St. Clair to prepare a written review. We submitted our review of the draft on May 10, 1974. On May 13, 1974 the Court held a closed hearing with representatives of the White House, the Office of the Special Prosecutor, the Panel, and SRI in attendance. The Court decided that the Panel's report, as well as SRI's review of this report, could be made public.

## II THE PANEL'S CONCLUSIONS

In the draft of May 3, 1974 of its report, the Panel reiterated its original conclusions (first reported to the Court on January 15, 1974) with respect to the cause of the 18.5-minute erasure contained in the tape of June 20, 1972:

- "1. The erasing and recording operations that produced the buzz section were done directly on the Evidence Tape.
2. The Uher 5000 recorder designated Government Exhibit 60 probably produced the entire buzz section.
3. The erasures and buzz recordings were done in at least five, and perhaps as many as nine, separate and contiguous segments.
4. Erasure and recording of each segment required hand operation of keyboard controls on the Uher 5000 machine.
5. Erased portions of the tape probably contained speech originally.
6. Recovery of the speech is not possible by any method known to us.

7. The Evidence Tape, insofar as we have determined, is an original and not a copy."

In our report of May 10, 1974 we indicated that we were in agreement with Conclusions 1, 2, 3, 5, 6, and 7, and that we had a reservation about Conclusion 4. Our concurrence with six of these conclusions was based on our knowledge of the Panel's work: The experimental methodology used by the Panel was appropriate for the collection of relevant and reliable data. The analysis and interpretation of these data were performed with skill and professional competence.

We were uncomfortable with the degree of certainty expressed in Conclusion 4. This conclusion implied that all segments of the erasure were necessarily the result of manual operation of the keyboard controls. Our reservation about this conclusion was based on our belief that the tape recorder in question was electronically faulty at the time when the erasure was produced.

Our report of May 10, 1974 was made available to the Panel during the Court's hearing on May 13, 1974. The Panel agreed with us that Conclusion 4 was too strong and announced to the Court that it would therefore reword this conclusion as follows:

"Erasure and recording in at least five places on the Evidence Tape required hand operation of keyboard controls on the Uher 5000 machine."

The Panel held to its position that faulty operation of the machine was not materially involved in producing the erasure on the Evidence Tape.

III POSSIBLE MACHINE MALFUNCTION

We still believe that the Uher 5000 tape recorder designated Government Exhibit 60 was electronically faulty at the time when the erasure on the Evidence Tape was produced. It is our opinion that this particular machine did not perform in accordance with all of the manufacturer's specifications. Because a faulty machine can produce some marks that are similar to those observed on the Evidence Tape, we feel that possible internal malfunction must be kept in mind while developing an explanation for the 18.5-minute erasure. The Panel, however, categorically rejects any hypothesis based on internal malfunction.

We find it somewhat unreasonable to reject all hypotheses involving a faulty, and therefore possibly illogical machine, even though a few hypotheses of this kind have been formulated, tested, and rejected by the Panel and by SRI. While the hypotheses that have come to the attention of the Panel and SRI have been disproved when scrutinized theoretically or experimentally, it is still possible that an acceptable hypothesis can be advanced by other scientists.

We believe that the 30-volt power supply in Government Exhibit 60 was faulty at the time the erasure on the Evidence Tape was produced. In support of this view, we offer the following evidence:

1. At the beginning of its test program, the Panel was able to use Government Exhibit 60 to reproduce the buzz signal contained on the Evidence Tape. Later on, the machine failed to operate and the trouble was traced to a defective bridge rectifier in the 30-volt power supply. After this component was replaced, the Panel could no longer reproduce the buzz signal. This observation suggests that the power supply may have

been faulty in some respects when the erasure on the Evidence Tape was produced.

2. The buzz signal on the Evidence Tape exhibits several unexplained erratic variations in amplitude. These amplitude variations were probably caused by an intermittent condition in the power supply of the machine.
3. Twelve click marks were found on the Evidence Tape. The Panel mentions these click marks in its report, but offers no explanation as to the origin of these electrical transients. Perhaps the transients came from the power line, but a more likely explanation is that they were caused directly or indirectly by a faulty power supply in the machine.

Now, if certain intermittent conditions are present in the 30-volt power supply of a Uher 5000 tape recorder, both predictable and erratic switching activities will occur in the control circuits of the machine. Experiments conducted by the Panel and by SRI support this statement. Such switching activities may account for some of the marks observed on the Evidence Tape.

Furthermore, intermittent conditions could well produce transients that either closely resemble, or obfuscate the identification of, so-called K-1 pulses. K-1 pulses are marks produced by an internal switch that is mechanically actuated by most keyboard operations. The presence of a genuine K-1 pulse is interpreted by the Panel and by SRI as strong evidence of manual operation of the keyboard controls.



IV SUMMARY

We are in general agreement with the Panel's report, but we disagree with the Panel's treatment of an underlying issue. The substance of our disagreement is that the Panel finally and irrevocably dismissed the possibility that a faulty machine was involved in producing the erasure on the Evidence Tape. We believe that the Uher 5000 tape recorder designated Government Exhibit 60 was electronically faulty at the time when the erasure was produced. In our opinion, it is still possible that some internal malfunction of the machine, although undetermined and unexplained by the Panel and SRI, could have been partly responsible for the 18.5-minute erasure on the tape of June 20, 1972.

\* \* \*

MICHAEL H. L. HECKER, SENIOR RESEARCH ENGINEER  
SENSORY SCIENCES RESEARCH CENTER  
INFORMATION SCIENCE AND ENGINEERING DIVISION

*Specialized professional competence*

- Speech communication; psychological acoustics; sound recording; audio instrumentation

*Representative research assignments at SRI (since 1967)*

- Study of consonant-vowel ratios and speaker intelligibility
- Consultation on criminal cases involving "voiceprints"
- Study of the effects of certain diseases on speech production
- Survey of research relating to speaker recognition
- Evaluation of methods for measuring aircraft noise

*Other professional experience*

- Senior research engineer, Bolt Beranek and Newman Inc.; conducted studies concerned with the manifestations of psychological stress and emotions in the speech signal; developed tests for measuring intelligibility and speech quality; investigated the speech-interference effects of aircraft noise
- Project officer, U.S. Army Electronics Research and Development Laboratories; had technical responsibilities in the fields of speech-signal processing and voice security; initiated a cinefluorographic study of speech production
- Staff member, Research Laboratory of Electronics, Massachusetts Institute of Technology; participated in the design, construction, and evaluation of an articulatory speech synthesizer

*Academic background*

- B.S. in electrical engineering, with honors (1959), Northeastern University; M.S. in electrical engineering (1961), Massachusetts Institute of Technology; Ph.D. in speech and hearing sciences (1974), Stanford University

*Publications*

- Fifteen articles in scientific and professional journals, including a monograph on speaker recognition, and many technical reports

*Professional associations and honors*

- Acoustical Society of America (fellow; chairman of the Technical Committee on Speech Communication); Society of Motion Picture and Television Engineers
- Eta Kappa Nu; Tau Beta Pi

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31b- DEKTOR COUNTERINTELLIGENCE AND SECURITY, INC.  
REPORT, EVALUATION OF REPORT BY THE ADVISORY  
PANEL ON WHITE HOUSE TAPES, MAY 30, 1974, 42

for the U.S. District Court for the District of Columbia by the Advisory Panel on White House Tapes, Draft of May 3, 1974. Evaluation of the information contained therein has allowed us to take a considerably stronger position. It allows us to state with confidence that the panel's conclusion concerning keyboard manipulation cannot be valid and a reasonable hypothesis based upon power, supply malfunction has become probable. Attempting to prove precisely what combinations of intermittent problems in the bridge rectifier, a filter capacitor, and, possibly, with a loose ground connection, may now be an impossible task, since the rectifier bridge suffered catastrophic failure and was replaced, as was reported in the draft report, and certain unidentified ground connections were "tightened", as was reported during the previous testimony. Ultimately, the question seems to be; was the recorder manipulated at the keyboard? If it was not, what actually occurred may be academic. It is to the question that we have addressed our evaluations.

We have provided the detail of our evaluation at the attached Tabs, at which we have considered the repeatability of the displayed data, analysis of the data provided dealing with the three possible instances of buzz-on-buzz, analysis of the data provided concerning phase continuity, analysis of K1 pulse data, correction of certain apparent misconceptions concerning "record-head-on" pulses, and, lastly, a point-by-point evaluation of the panel's identification and interpretation of the observed events.

There follows a brief summary of the information contained at the six TABS:

a. The techniques employed by the panel for charting and display of wave form and spectrographic data are not sufficiently repeatable to provide the basis for definitive conclusions based upon minor or moderate differences in cross-comparisons or apparent sameness when minor or moderate differences would change the conclusion. (See TAB A for a detailed treatment of this problem.)

b. The basis which the panel uses for identification of "record-head-on" pulses appears to be without reasonable foundation. They have apparently confused pulse amplitude with pulse duration and, in this regard, have failed to note the significance of tape saturability. From the wave form traces they present concerning this type of event, it seems that any pulse, from any other source -- power line transient, switch arcing, relay contact arcing, or electrolytic capacitor pop in the audio circuits or in either power supply -- would produce a similar pulse, if its amplitude were sufficient to saturate the tape. It is our considered opinion that, when a "100 millisecond pulse" is observed in the wave form tracings, it is only evidence that a pulse of some minimum amplitude has occurred from some unidentified source, which source may be record-head turn-on.

The second problem concerning the "record-head-on" pulses is the presence of double or multiple pulses, which have been either denied or ignored by the panel. The multiple pulses seem to establish beyond question that keyboard manipulation can not have been involved in those cases where multiple pulses exist. (See TAB E for a detailed treatment of this problem.)

c. The report describes three alleged buzz-on-buzz situations in the 18.5 minute buzz section. Study of the wave form and spectrographic charts pertaining to these sections reveals no discernible buzz-on-buzz for the 1.22 second period in which it must be present if the panel's

## HOME SERVICES INC.

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### HOME SERVICES, INC. REPORT ON UHER 5000 TAPE RECORDER

Home Services, Inc. tested a Uher 5000 recorder, the same type and model, mechanically and electronically, as Exhibit 60. It will be described as the "E. S. Uher" in this Report.

The E. S. Uher did operate physically, mechanically and electronically in the same manner as Exhibit 60 described in the Draft Report of the Advisory Panel on the Tape of June 20, 1972. A copy of the Panel's Report was supplied for our evaluation.

We evaluated the data in the Draft Report in light of our many years of experience with tape recorder repairs and specific experience with the H. S. Uher machine. Since we had no access to the evidence tape, we must assume that the data accumulated by the panel are substantially correct. We believe, however, that not enough research was done on the recorder itself. For this reason, the Advisory Panel's conclusions do not exclude other conclusions equally supported by the Panel's data.

In our report we will be primarily concerned with the tape recorder function (or malfunction) which could have caused the 18½ minute gap and buzz on the June 20, 1972 Tape. Specifically, it is our conclusion that with the Uher 5000 tape recorder malfunctioning in the manner described in IV below, with the record button in up position, and the foot pedal being used to operate the tape transport system, both an erasure and a 60 cycle buzz can be placed on the tape leaving the marks and other data substantially as described in the Panel's Draft Report. Thus, we take issue with the Panel's Conclusions 3 and 4; that keyboard operation was necessary to produce the evidence tape in the condition described by the Panel, and that the production of the gap and buzz required several segmented stops and starts involving keyboard operation.

The Advisory Panel on Tapes assumed no malfunctioning of the Uher recorder. There is no evidence that the Panel tested for any of the malfunctions which, it has been our experience, are common in tape recorders. Our report indicates only one of the possible malfunctions which could produce the data described by the Panel. We are not prepared to rule out other malfunctions producing the same results which we did not have time to fully investigate.

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to be nearly as sensitive as Exhibit 60 to powerline disturbances of this type. Others did have small posts which occurred. This was unique in the kind of sound it produced.

MR. RHYNE: You mean that it pulled more power out?

MR. WEISS: It appeared to generate more high frequency components.

Now in fact, as a kind of additional correlation of this series, during part of the testing that was going on on Exhibit 60, the Uher, it failed, died on us. We opened it up and found that a BC power supply inside, a device --

MR. RHYNE: --called a diode.

MR. WEISS: This was a so-called diode bridge rectifier. There are two in a Uher. One supplies power to cellenoids that activate the various functions and also to the low-level high amplification circuit. The other provides power to high level that puts out signals finally. The first of these two failed. We replaced it with an identical component obtained and the device again began to function. However, now it would not produce that buzz anymore.

Now its characteristic was virtually identical to that of the other three Uher's we had tested.

MR. RHYNE: Prior to the time it failed had you noticed any defect in it?

MR. WEISS: No, not in its normal performance. It moved tape, erased tape, recorded tape, played it back same as 219

the others. The only thing was this ability to produce a very loud high frequency content buzzing sound.

MR. RHYNE: So you are saying at the time you tested it this diode or whatever it was produced a different noise?

MR. WEISS: Conceivably it was in the process of failing

MR. RHYNE: You don't know when the process started?

MR. WEISS: No, no way of knowing it.

MR. RHYNE: You don't know whether after you received it or --

MR. WEISS: --we have no way of knowing, no, because -- well, from the very beginning, lets say from the actually the second day we began testing the devices, we were able to produce this buzz.

MR. RHYNE: Why about the first day?

MR. WEISS: The first day we couldn't, it was the first night actually. We found out, we believe the reasons we observed, there are changes in the powerline in New York at our location and at night you do not get these sharp pulses, only in the day time. We started testing at night. We did obtain the first buzz the next morning --Friday morning.

MR. RHYNE: Since you couldn't find it in the beginning isn't it possible the diode really went bad right in your possession?

MR. WEISS: It is conceivable. But again, we have this strong correlation between these events.

By the way, there are two other possible patterns for --

a buzz to being produced into this machine. One is simply through electric field pick-up. Need not have been direct electrical conduction through power input. It could have been pick-up in the machine itself. Once again, <sup>when</sup> we opened up the machine to repair the machine we replaced the diode bridge. It is possible something else was done, for example, may have been a loose grounding connection which was resecured without our realizing it as we put it together again, such that it was no longer sensitive to extraneous electro magnetic pick-up.

One other possibility we observed as your hand approached the case on the machine if there is pick-up going on you will observe a change in the hum quality.

MR. BEN-VENISTE: Is that on page 3, your explanation for the statement, "changes in the position of the operator's hand"?

MR. WEISS: That is correct. When it comes very close to the machine it does affect the hum pick-up characteristic of it.

MR. BEN-VENISTE: In experimenting you were, by moving your hand while the machine was in record mode, closer to the keys to amplify the hum?

MR. WEISS: Some small changes which are possible, yes.

MR. RHYNE: I want to make certain, while you had possession of this Uher that was placed in evidence, there was a time you had to change the parts?

MR. WEISS: That is correct, just one part.

MR. RHYNE: That was the diode you related to the buzz?

MR. WEISS: You see we can't say for sure it was the diode bridge failure. The only thing we can say is subsequent to repair of the machine it failed to buzz in a distinctive manner. Whether it was the rectifier or some other repair that took place without our realizing we were making it at the time, we cannot say with any certainty.

MR. RHYNE: This was a new machine, was it not?

MR. WEISS: I would not know.

MR. BEN-VENISTE: Which was a new machine?

MR. WEISS: Your 60? We are talking about the Uher 5000 in evidence. We would not know.

MR. BEN-VENISTE: This has been identified as the machine which was in Miss Woods' office for approximately at least a month and beyond that we haven't had any testimony as to how old it was, I believe.

THE COURT: Any other questions?

MR. ST. CLAIR: Would you say the change in the background noise --is that a proper way to refer to it? Could be explained by a malfunction of the diode bridge in the process of failing?

MR. WEISS: In conjunction with the presence and variation in these disturbances in the powerline, that is to say merely to have malfunction without disturbances would not have



32. Haldeman's contemporaneous notes of his June 20, 1972 meeting with the President do not reflect that the President had prior knowledge of the Watergate burglary or was aware of any subsequent cover-up.

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32 a. In re Grand Jury, Misc. 47-73, Tr. 1307, 1308.. 224

Mr. Haldeman's notes as to the portion which precedes what is the last portion that Miss Woods testified she heard before she pressed the record button. She testified it had to do with Ealy, Nevada.

Mr. Haldeman's notes would reflect a letter which apparently the President was going to send to the Governor of South Dakota which reads:

"Dear Governor:

"Mrs. N told me of your very warm welcome on what was understandably a very sad day for the people of South Dakota. She told me of concern you expressed (re tourists). Mrs. N and I have always had a special place in our hearts for South Dakota"...because her parents were married at Lees, South Dakota, and -- and there is a crossed off portion ---" and they later moved to Ealy, Nevada, her birth place."

The note continues on Page 2 at the top, says:

"Be sure EOB office is thoroughly checked re bugs at all times -- et cetera. What is our counter attack? PR offensive to top this. Hit the opposition with their activities. Point out libertarians have created public what I believe is calousness. Do they justify this less than stealing Pentagon papers, Anderson File, et cetera. We should be on the attack for diversion."

Then it continues with a dash in the margin:

1303

"What is scheduled on SFR, I think is the word in caps, SALT hearings?"

Then a D in the margin: "Go to California on Friday with PN. Julie come out later. PN not to the shower."

That is the conclusion of Mr. Haldeman's notes of his meeting on June 20th in the EOB office with the President. And that is the heading of the notes.

MRS. VOLNER:

Q Miss Woods, I would like to give you Exhibit 60 and 60-A and -B (tape recorder and foot pedal and ear phones.)

"Now, is that how the machine was on the day of October 1st, 1973?

A Is that how it was? No, I told you that they had the record button down.

Q It didn't have the record button down when you were listening to the tapes did it?

A No, I understood you to mean when I discovered there was something wrong.

Q Prior to that time?

A Prior to that time this was in (indicating foot pedal) and if I may (ear plugs) in.

Q Now, you have attached the foot pedal with is 60-B to a plug on the side of the recording machine which is marked "micro remote control". Is that the same plug that you

